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**Acting Director for Human Resources Management and
Chief Human Capital Officer**

**DEPARTMENT OF COMMERCE
OFFICE OF HUMAN RESOURCES MANAGEMENT**

HUMAN RESOURCES (HR) BULLETIN #241, FY20

SUBJECT: Reemploying Civilian Retirees Under the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2020

EFFECTIVE DATE: Upon release of this HR Bulletin

EXPIRATION DATE: Effective until December 31, 2024

SUPERSEDES: HR Bulletin #240, FY20, "Reemployment of Civilian Retirees Under the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2020."

REVISIONS: This bulletin updates the delegation of authority to approve waivers to the dual compensation (salary offset) provision under the NDAA for FY 2020.

BACKGROUND: On December 20, 2019, the President signed the NDAA for FY 2020. Section 1117 of the NDAA for FY 2020 extends the authority originally provided in the NDAA for FY 2010, and subsequently extended in the NDAA for FY 2015. This authority allows the head of an agency to grant dual compensation (salary offset) waivers on a temporary basis under certain specified circumstances for reemployed annuitants through December 31, 2024. The Office of Human Resources Management (OHRM) provided email notification of the NDAA extension to the Principal Human Resources Managers on January 6, 2020.

PURPOSE: The bulletin sets forth policy and guidance for requesting, approving, and reporting of initial dual compensation waivers and subsequent extensions thereof, for reemploying an individual receiving an annuity from the Civil Service Retirement System or the Federal Employees Retirement System without discontinuing or reducing the individual's salary under Title 5, United States Code (U.S.C.) §§ 8344 or 8468.

DELEGATION OF AUTHORITY: Principal Human Resources Managers are delegated the authority to approve waivers to the dual compensation (salary offset) provision under the NDAA for FY 2020. The authority cannot be redelegated.

PROCEDURES: Initial requests to waive the dual compensation restrictions for reemployed annuitants, and requests for extensions of the initial waiver and temporary appointment under the NDAA must be submitted to the appropriate Servicing Human Resources Office (SHRO) through the bureau/operating unit (OU) head, or his/her designee.

APPLICABILITY: This authority may be provided to Federal annuitants on time-limited appointments, and remains in effect until its expiration on December 31, 2024. To be eligible, the annuitant's appointments **must be limited to 1 year or less** (i.e., temporary appointments, experts/consultants, etc.) and only for positions necessary to: (1) fulfill functions critical to the mission of the Department of Commerce (Department); (2) assist in the implementation or oversight of the American Recovery and Reinvestment Act of 2009 or the Troubled Asset Relief Program under Title 1 of the Emergency Economic Stabilization Act of 2008; (3) assist with the development, management, or oversight of the Department's procurement actions; (4) assist the Department's Inspector General (IG) in the performance of the mission of the IG; (5) promote appropriate 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.

Use of this authority does not alter or affect the reemployment restrictions found in Title 5, Code of Federal Regulations (CFR), Part 576 for employees who separated and received a Voluntary Separation Incentive Payment.

HOURS OF SERVICE: The authority prohibits waiving the salary offset provision of Title 5, U.S.C. §§ 8344 or 8468 to an annuitant (1) for more than 520 hours of service performed during the 6 months following the individual's annuity commencement date; (2) for more than 1,040 hours of service performed during any 12-month period; and (3) for more than a **total of 3,120 hours** of service performed by the annuitant.

If it is anticipated that the annuitant will be needed for more than 24 months, the first and second 12-month service periods must be limited to 1,039 hours (see "Appointment Restrictions"). While there is an overall limit of 3,120 hours of service performed by an annuitant, the limitation of 1,040 hours within a 12-month period cannot be combined. For example, an annuitant cannot work 2,080 hours in a 12-month period even though it is below the overall limit of 3,120 hours.

Note: The NDAA for FY 2020 extends the authority originally provided in the NDAA for FY 2010, and subsequently extended in the NDAA for FY 2015. There is no provision for the time limitations to start over under the extended authority. Therefore, the total of 3,120 hours of service performed by an annuitant must be calculated from the initial dual compensation waiver, including those approved under previous NDAA's.

Training/Mentoring – If the annuitant is reemployed for a mixed purpose that includes training and mentoring, the time he/she spends training and mentoring employees is not counted toward the time limits described above. However, the annuitant cannot spend more than a total of 520 hours in training and mentoring activities during all of his or her reemployment.

If the primary service performed by the annuitant is training or mentoring of employees, all of the time the annuitant spends training and mentoring counts toward the time limits described above.

APPOINTMENT RESTRICTIONS: Title 5, CFR § 316.401(c)(1) prohibits temporary appointments for periods of more than 1 year. Appointments may be extended up to a maximum of 1 additional year (24 months of total service). A position may not be filled using a temporary appointment if the position has previously been filled by a temporary appointment for an aggregate of 24 months, within the preceding 3-year period (Title 5, CFR § 316.401(c)(2)).

However, temporary appointments may be extended beyond the 2-year period of service for intermittent or seasonal work, provided that appointments and extensions are made in increments of 1 year or less, and that employment in the same or successor position under this or any other appointing authority totals less than 6 months (1,040 hours), excluding overtime, in a service year (Title 5, CFR § 316.401(d)(1)(i) and (ii)).

If a supervisor anticipates the need for a reemployed annuitant's services in the same position or a position performing the same basic duties for more than 24 months, the annuitant **MUST** work fewer than 1,040 hours during each service year.

For Example:

Not Eligible for Extension Beyond 24 Months:

Annuitant works 1,040 hours in first service year;
Annuitant works 1,039 hours in second service year;
Annuitant is not eligible for another temporary appointment.

Eligible for Extension Beyond 24 Months:

Annuitant works 1,039 hours in first service year;
Annuitant works 1,039 hours in second service year;
Annuitant works 1,040 hours in third service year;
Totaling 3,118 hours.

ADVERTISING POSITIONS: Current policy applies when advertising competitive service positions.

REQUIRED DOCUMENTATION:

Initial Request –

- Written documentation supporting the request that employment of the reemployed annuitant is necessary, and meets at least one of the seven covered applicabilities;
- A copy of the annuitant's resume;

- Documentation indicating applicable policies on advertising vacant competitive service positions were met; and
- The completed “Request for a Dual Compensation Waiver Under the National Defense Authorization Act for Fiscal Year 2020.”

Extension Request –

- Written documentation supporting the request that employment of the reemployed annuitant is necessary, and meets at least one of the seven covered applicabilities;
- A copy of the annuitant’s resume;
- Copy of all appropriate “Statements of Earnings and Leave,” for the annuitant documenting the number of hours of service performed during the previous 12-month service period(s);
- The number of hours spent on training/mentoring, and an explanation of training/mentoring activities, if applicable; and
- The completed “Request for a Dual Compensation Waiver Under the National Defense Authorization Act for Fiscal Year 2020.”

PROCESSING: When processing reemployed annuitants under the NDAA, the appropriate annuitant indicator codes must be used:

- 0 – Reemployed CSRS annuitant
- K – Reemployed FERS annuitant

You must maintain a record of each request and the action for 3 years following the action date.

DEPARTMENT RESTRICTIONS: The total number of annuitants who receive a waiver under the NDAA may not exceed 2.5 percent of the Department’s full-time workforce. If the total number of annuitants to whom a waiver is granted exceeds 1 percent of the total number of full-time employees, a report to the Senate Committee on Homeland Security and Governmental Affairs, the House of Representatives’ Committee on Oversight and Government Reform, and the Office of Personnel Management (OPM) must be provided. The report must include an explanation that justifies the need for the waivers in excess of 1 percent; and not later than 180 days after submitting the report, a succession plan must be submitted to the same parties.

SHRO REPORTING REQUIREMENT:

- The SHROs are required to track the number of employees receiving a dual compensation waiver under this authority, and must inform the Director of OHRM when the number of annuitants who are receiving this waiver in a bureau/OU equals 1 percent.
- Reports must be submitted within 5 business days, following the end of each quarter.
- Reports must contain the following:
 - Bureau/OU, line office, name, title, series, grade/band, effective date of appointment, NTE date of appointment, original (Y/N), extension (Y/N) and number of hours worked in service year, number of previous extension (if applicable).

REFERENCES: National Defense Authorization Act for Fiscal Year 2020, Section 1117, *Extension of Authority for Part-Time Reemployment*; OPM, Memorandum for Chief Human Capital Officers, *Policy Guidance on the Reemployment of Civilian Retirees Under the National Defense Authorization Act (NDAA) for Fiscal Year 2010*; Title 5, U.S.C. §§ 8344 and 8468; Title 5, CFR Part 576; Title 5, CFR § 316.401

OFFICE OF POLICY AND BENEFITS: OPBservices@doc.gov

**REQUEST FOR A DUAL COMPENSATION WAIVER OR EXTENSION UNDER
THE NATIONAL DEFENSE AUTHORIZATION ACT (NDAA) FOR
FISCAL YEAR 2020**

Date of request:

Full name of annuitant:

Is this an initial request or extension request?

If extension request, please provide the initial appointment date and any subsequent appointment dates, along with the number of hours of service performed in each 12-month period.

Title, pay plan, series, grade of position:

Proposed appointment date:

Not-to-exceed date:

Under which necessity (please check one):

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