October 24, 1996

OMB BULLETIN NO. 97-02

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

SUBJECT: Voluntary Separation Incentives for Employees of Certain Federal Agencies

1. Purpose and Overview. Section 663 of the Treasury, Postal Service, and General Government Appropriations Act, 1997 (Public Law 104-208; September 30, 1996) (the Act) authorizes most Executive branch agencies to provide voluntary separation incentives (buyouts) to minimize the need for involuntary separations that might otherwise be required for downsizing and restructuring the agencies. The Act requires each agency that uses buyouts to reduce its full-time equivalent employment (FTE) by one for each buyout separation.

Buyouts under the Act are authorized for separations by retirement or resignation that occur on or after October 1, 1996 and before December 31, 1997. No delayed separations are permitted. The buyout payment is the lesser of the amount based on an employee's severance pay calculation or an amount to be determined by the agency head that cannot exceed $25,000. In addition, agencies will pay into the retirement fund 15% of the final basic pay of any employee who receives a buyout and is covered by the Civil Service Retirement System (CSRS) or Federal Employees' Retirement System (FERS). Should a buyout recipient be reemployed, including employment under a personal services contract, in the Government within 5 years of separation, the entire buyout payment must be repaid before their first day of employment. There is no authority for waivers of repayment in the Act.

2. Coverage. Generally, all Executive agencies not otherwise authorized in the Act or other legislation to conduct buyouts at any time during Fiscal Year 1997 are covered by the Section 663 authority and the guidance in this OMB Bulletin. Excluded agencies with buyout authority under other legislation will

receive separate guidance from OMB, if required.

3. Attachment A provides guidance on agency implementation of the Act's buyout program, including:

- -- definitions for key terms and provisions in the Act;
- -- required agency plan for use of buyout authority (referred to in the Act as "Agency Strategic Plan");
- -- required reduction in agency employment levels; and
- -- reporting requirements.

4. Attachment B is a copy of Section 663 from the Act.

5. The content of this OMB Bulletin does not cancel or otherwise amend OMB guidance on Section 5 of the Federal Workforce Restructuring Act of 1994 (FWRA) (Public Law 103-226; March 30, 1994) contained in OMB Bulletin 94-04, dated April 18, 1994.

6. Contact. Questions regarding this Bulletin should be directed to the agency's OMB representative with primary responsibility for the account or program. The Office of Personnel Management will provide further human resources management guidance and assistance to agencies, as well as instructions on payments to the retirement fund and on reporting requirements.

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Director

Attachments

Attachment A
OMB Bulletin No. 97-02

Guidance
Voluntary Separation Incentives for Employees
of Certain Federal Agencies
Section 663 of the Treasury, Postal Service, and General
Government Appropriations Act, 1997
(Public Law 104-208; September 30, 1996)(the Act)

1. Definitions.

a. Employee -An employee (as defined in section 2105 of title 5, U.S.C.) under the Act must have been continuously employed for at least 3 years in order to be potentially eligible for a buyout. This is unlike the buyout authority in the Federal Workforce Restructuring Act (FWRA) which required only a minimum of 12 months of current continuous employment. Further, the Act disallows buyout payments to the following categories of employees, including some not excluded in FWRA:

-- an employee who, during the previous 24 months, received a recruiting or relocation bonus, or within 12 months of the separation date received a retention allowance;

-- an employee completing an additional period of service (not to exceed March 31, 1997) to satisfy the requirements for a deferred buyout payment under FWRA;

-- an employee in receipt of a specific notice of involuntary separation for misconduct or unacceptable performance;

-- an employee who previously received any buyout payment by the Federal Government and has not repaid such payment;

-- a reemployed annuitant;

-- an employee who is or would be eligible for disability retirement; and

-- an employee with statutory reemployment rights on transfer to another organization.

b. Agency -The Act specifically excludes from the term "agency" (defined as Executive agency in section 105 of title 5, U.S.C.) any agency that is authorized by any other provision of the Act or any other Act (except the Department of Transportation Appropriations Act, 1997) to provide voluntary separation incentive payments during all, or any part of, Fiscal Year 1997. Therefore, the agencies excluded from offering buyouts under the Act are the Departments of Agriculture and Defense, Central Intelligence Agency, Smithsonian Institution, Agency for International Development, the National Aeronautics and Space Administration, the Railroad Retirement Board (RRB) and the Office of the Inspector General of the RRB. These agencies' buyout programs are governed by other legislation. Separate guidance will be issued by OMB to excluded agencies, if required.

c. Strategic Plan -Before an agency may obligate any resources for buyouts, the Act requires the agency to submit its buyout plan to the House and Senate Committees on Appropriations and the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives. The Act requires that the plan outline the intended use of the buyouts and include a proposed organizational chart for the agency once the buyout separations have been completed. The plan must identify:

-- the positions and functions to be reduced or eliminated, identified by organizational unit, geographic location, occupational category, and grade level;

-- the number and amounts of voluntary separation incentive payments to be offered; and

-- a description of how the agency will operate without the eliminated positions and functions.

The Act's use of the term "strategic plan" is not a reference to strategic plans under the Government Performance and Results Act (GPRA). However, agency buyout plans are expected to support the objectives of the agency's strategic plan.

2. OMB Review of Agency Plans for Use of Buyouts.

Agencies that intend to use the buyout authority shall submit to their OMB representative a draft of the plan or plans for buyout use prior to it being submitted to the Congress. In addition to the above cited content requirements, the information submitted should include:

-- the timing of buyout offers and scheduled separation dates;

-- where appropriate, the maximum dollar amount of buyout payments if determined by the agency head to be less than $25,000; and

-- an estimate of the savings to be achieved in the fiscal year(s) following the planned buyout separations.

The agency's plan or plans may be submitted at any time and will be reviewed and acted on generally within 10 working days.

3. Reduction in Agency Full-Time Equivalent Employment.

A one-for-one reduction in an agency's funded positions, measured on an FTE basis, is required for each employee who separates by retirement or resignation with a buyout payment. Generally, the reductions are from department-wide totals, but may, in special situations acceptable to OMB, come from only the department's separate component undergoing downsizing.

For buyout separations under this Act, the required FTE reduction will be measured as the change from the agency's actual FTE usage in Fiscal Year 1996 to the actual FTE usage in Fiscal Year 1998. To the extent known at that time, the President's Fiscal Year 1998 Budget should reflect the impact of any planned buyout separations in the FTE estimates for Fiscal Years 1997 and 1998.

Example: If the agency's actual FTE use in Fiscal Year 1996 was 1,000 and the agency plans to have 100 buyout separations under the Act, the agency's estimate of FTE usage for 1998 shown in the President's 1998 Budget, and the resulting actual FTE usage in Fiscal Year 1998, cannot exceed 900 FTE.

Agency heads are responsible for ensuring compliance with the Act's requirement for FTE reductions. OMB will monitor monthly FTE reports against the agency's plan for use of buyouts and may direct corrective action, including a freeze on agency hiring, should it appear at any time that agency-wide FTE reductions will not be sufficient to offset buyout separations by the end of Fiscal Year 1998.

4. Additional Agency Contribution to the Retirement Fund

For each employee covered under the Civil Service Retirement System (CSRS) or the Federal Employees' Retirement System (FERS) who is paid a buyout, the agency will pay into the retirement fund an amount equal to 15% of that employee's final basic pay. Final basic pay is defined in the Act. This payment to the retirement fund is the amount determined by the Congressional Budget Office as the required offset to meet the "pay-as-you-go" (PAYGO) requirement in the Budget Enforcement Act of 1990. The Office of Personnel Management (OPM) will advise agencies on the procedures for making these payments.

5. Reporting Requirements.

Although the Act does not include specific reporting requirements, OMB has asked OPM to gather information on buyout activity under the Act. This data will be needed to meet Congressional and other information requirements. Agencies will be asked by OPM to submit quarterly reports that provide, at a minimum:

-- the number of employees who received buyouts under the Act for each type of separation involved and for each geographic location;

-- the average amount of the buyouts that were paid;

-- the average grade or pay level of the employees who received buyouts; and

-- other information that OMB and OPM may require.

In addition, OMB offices will review agency implementation of buyout plans to monitor accomplishment of planned FTE reductions and restructuring of the agency. Agencies are advised to maintain current data on accomplishments in relation to the agency's buyout plan.

OPM will issue separate guidance on reporting requirements under the Act. OPM currently collects information on buyout separations under FWRA that have been deferred to not later than March 31, 1997. Agencies are reminded to ensure that information is accurately maintained and reported to distinguish between buyouts under FWRA and the new authority in the Act.

Attachment B
OMB Bulletin No. 97-

Copy of Sec. 663

Sec. 663. Voluntary Separation Incentives for Employees of Certain Federal Agencies. --(a) Definitions. --For the purposes of this section--

(1) the term `agency' means any Executive agency (as defined in section 105 of title 5, United States Code), other than an Executive agency (except an agency receiving such authority in the Department of Transportation Appropriations Act, 1997) that is authorized by any other provision of this Act or any other Act to provide voluntary separation incentive payments during all, or any part of, fiscal year 1997; and

(2) the term `employee' means an employee (as defined by section 2105 of title 5, United States Code) who is employed by an agency, is serving under an appointment without time limitation, and has been currently employed for a continuous period of at least 3 years, but does not include--

(A) a reemployed annuitant under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, or another retirement system for employees of the agency;

(B) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, or another retirement system for employees of the agency;

(C) an employee who is in receipt of a specific notice of involuntary separation for misconduct or unacceptable performance;

(D) an employee who, upon completing an additional period of service as referred to in section 3(b)(2)(B)(ii) of the Federal Workforce Restructuring Act of 1994 (5 U.S.C. 5597 note), would qualify for a voluntary separation incentive payment under section 3 of such Act;

(E) an employee who has previously received any voluntary separation incentive payment by the Federal Government under this section or any other authority and has not repaid such payment;

(F) an employee covered by statutory reemployment rights who is on transfer to another organization; or

(G) any employee who, during the twenty four month period preceding the date of separation, has received a recruitment or relocation bonus under section 5753 of title 5, United States Code, or who, within the twelve month period preceding the date of separation, received a retention allowance under section 5754 of title 5, United States Code.

(b) Agency Strategic Plan:

(1) In general. --The head of each agency, prior to obligating any resources for voluntary separation incentive payments, shall submit to the House and Senate Committees on Appropriations and the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives a strategic plan outlining the intended use of such incentive payments and a proposed organizational chart for the agency once such incentive payments have been completed.

(2) Contents. --The agency's plan shall include--

(A) the positions and functions to be reduced or eliminated, identified by organizational unit, geographic location, occupational category and grade level;

(B) the number and amounts of voluntary separation incentive payments to be offered; and

(C) a description of how the agency will operate without the eliminated positions and functions.

(c) Authority to Provide Voluntary Separation Incentive Payments:

(1) In general. --A voluntary separation incentive payment under this section may be paid by an agency to any employee only to the extent necessary to eliminate the positions and functions identified by the strategic plan.

(2) Amount and treatment of payments: A voluntary separation incentive payment--

(A) shall be paid in a lump sum after the employee's separation;

(B) shall be paid from appropriations or funds available for the payment of the basic pay of the employees;

(C) shall be equal to the lesser of--

(i) an amount equal to the amount the employee would be entitled to receive under section 5595(c) of title 5, United States Code; or

(ii) an amount determined by the agency head not to exceed $25,000;

(D) may not be made except in the case of any qualifying employee who voluntarily separates (whether by retirement or resignation) before December 31, 1997;

(E) shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit; and

(F) shall not be taken into account in determining the amount of any severance pay to which the employee may be entitled under section 5595 of title 5, United States Code, based on any other separation.

(d) Additional Agency Contributions to the Retirement Fund:

(1) In general. --In addition to any other payments which it is required to make under subchapter III of chapter 83 of title 5, United States Code, an agency shall remit to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund an amount equal to 15 percent of the final basic pay of each employee of the agency who is covered under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, to whom a voluntary separation incentive has been paid under this section.

(2) Definition. --For the purpose of paragraph (1), the term `final basic pay', with respect to an employee, means the total amount of basic pay which would be payable for a year of service by such employee, computed using the employee's final rate of basic pay, and, if last serving on other than a full-time basis, with appropriate adjustment therefor.

(e) Effect of Subsequent Employment With the Government. --An individual who has received a voluntary separation incentive payment under this section and accepts any employment for compensation with the Government of the United States, or who works for any agency of the United States Government through a personal services contract, within 5 years after the date of the separation on which the payment is based shall be required to pay, prior to the individual's first day of employment, the entire amount of the incentive payment to the agency that paid the incentive payment.

(f) Reduction of Agency Employment Levels:

(1) In general. --The total number of funded employee positions in the agency shall be reduced by one position for each vacancy created by the separation of any employee who has received, or is due to receive, a voluntary separation incentive payment under this section. For the purposes of this subsection, positions shall be counted on a full-time

equivalent basis.

(2) Enforcement. --The President, through the Office of Management and Budget, shall monitor the agency and take any action necessary to ensure that the requirements of this subsection are met.

(g) Effective Date. --This section shall take effect October 1, 1996.