MEMORANDUM TO HEADS OF DEPARTMENTS AND INDEPENDENT AGENCIES

FROM: JAMES B. KING
DIRECTOR

Subject: New Legislation on Voluntary Separation Incentive Payments for Certain Federal Agencies

On September 30, 1996, the President signed Public Law 104-208. Section 663 of that law provides targeted buyout authority for most Executive non-Defense departments and agencies. This package provides guidance developed by the Office of Personnel Management in consultation with the Office of Management and Budget and agencies for implementing the program and answering technical questions related to the law.

This new legislation contains many of the flexibilities and provisions of the Federal Workforce Restructuring Act of 1994 (P.L. 103-226). However, there are significant differences in the two programs. We have tried to clarify any differences and, where warranted, identify contrasts between the two incentive laws.

It is important to note that, although this law makes buyouts generally available to most Executive departments and agencies, the law prohibits the use of incentives until a detailed agency plan is submitted to the House and Senate Appropriations committees and the House Committee on Government Reform and Oversight and the Senate Committee on Governmental Affairs. Agencies wishing to use incentives are urged to work closely with the agency's Office of Management and Budget representative to develop these plans. All plans must be approved by the Office of Management and Budget before they are sent to the required Congressional committees.

This guidance contains a copy of the text of section 663, P.L. 104-208, an overview of the legislation, a comparison of the new legislation to the Federal Workforce Restructuring Act of 1994, OPM's Guide to Implementing Voluntary Separation Incentive Payments Programs Under P.L. 104-208, as well as a new "Employee's Guide to Buyouts Under Public Law 104-208," sample documents, and more.

Many of these materials are available on two OPM electronic bulletin boards. You can access OPM's MAINSTREET at 202-606-4800 and the Federal Jobs Opportunities Board at 912-757-3100. On both boards, the file name for the legislation is "PL104208.WP5" and "PL104208.TXT". This package will be posted under file name ""VSIPIAG.WP5" and "VSIPIAG.TXT".

Downsizing information is also available on the World Wide Web at a new site called "Planning Your Future -- A Federal Employee's Survival Guide." You can access this site on the Internet at:

http://safetynet.doleta.gov.

We urge you to make use of these flexible and accessible resources not only for buyout information, but for finding resources quickly, and efficiently. As always, OPM's Workforce Restructuring Office is available to assist you with any questions related to downsizing programs. You may contact the Office at 202-606-0960, by fax at 202-606-2329, or call the Restructuring Hotline at 202-606-2425.

Attachment

GUIDE TO IMPLEMENTING VOLUNTARY SEPARATION INCENTIVE PROGRAMS UNDER PUBLIC LAW 104-208

OFFICE OF PERSONNEL MANAGEMENT
WORKFORCE RESTRUCTURING OFFICE
December 2, 1996

CONTENTS

VOLUNTARY SEPARATION INCENTIVE PAYMENT AUTHORITY INCLUDED IN FY 1997 OMNIBUS SPENDING BILL

PUBLIC LAW 104-208
SECTION 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

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(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

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(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.

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(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.

Signed into law September 30, 1996, by President Clinton.

BRIEF OVERVIEW OF GOVERNMENTWIDE BUYOUT PROVISIONS IN OMNIBUS SPENDING PACKAGE (P.L. 104-208)

Buyouts can be authorized under this law between October 1, 1996, and December 30, 1997. All buyout separations under this law must occur before December 31, 1997. The law covers all Executive branch agencies except:

-- those with buyout authority (under any other legislation) covering any part of FY 1997. However, the Department of Transportation is covered under this buyout law.

Before using this authority, any agency wishing to use buyouts must submit an Agency Strategic Plan outlining its planned use of buyouts for approval to OMB. After OMB approval, the agency must forward the plan to the House and Senate appropriations and government affairs committees. The plan must detail positions and functions to be eliminated, the number of buyouts to be paid, how the agency will operate without the eliminated positions, etc.

The amount of the buyout is equal to the lesser of:

severance pay calculation;
$25,000; or
an amount determined by the agency head.

An employee **is eligible** to receive a buyout if :

- the employee receives a buyout offer on or after October 1, 1996, and before December 31, 1997 ;
- the employee accepts the buyout offer;
- the employee voluntarily retires, retires under voluntary early retirement, or voluntarily resigns during the approved buyout window; and
- the employee is not subject to any of the exclusions listed below.

An employee **is not eligible** to receive a buyout if the employee:

- is a reemployed annuitant;
- has a disability on the basis of which the employee is or would be eligible for a disability retirement;
- is serving under an appointment with a time limitation;
- has not been on-board with the agency without a break in service for 3 continuous years;
- is in receipt of a specific notice of involuntary separation for misconduct or unacceptable performance;
- is completing service in order to receive an approved "delayed buyout" under the Federal Workforce Restructuring Act of 1994;
- has received a buyout before but has not repaid it;
- is covered by statutory reemployment rights from another organization;
- has received a recruitment or relocation bonus within 24 months of separating to receive a buyout ;
- has received a retention bonus within 12 months of separating to receive a buyout.

Agency must pay a 15 percent contribution to the retirement fund for each incentive paid to an employee covered under CSRS or FERS. The 15 percent is based on an employee's final basic pay.

The agency paying buyouts must reduce its staff by one full-time equivalent for each incentive it pays.

A buyout taker must repay the entire amount of the incentive to the agency which paid the buyout prior to the employee's first day of work if the employee accepts employment with the Government of the United States or under a personal services contract within 5 years of separating with the incentive. There is no authority to waive this repayment requirement in the law.

COMPARISON

Public Law 104-208 and Public Law 103-226 (The Federal Workforce Restructuring Act of 1994)

	P.L. 104-208 "NEW LAW"	P.L. 103-226 "OLD LAW"
COVERAGE	Covers only agencies in the Executive branch which do not have a buyout authority which covers any part of FY 1997. Also includes Department of Transportation	Covered Executive agencies--except the Department of Defense (DOD), the Central Intelligence Agency (CIA), and the General Accounting Office (GAO) and provided provision for Judicial Branch agencies to establish similar programs.
TIMING and AVAILABILITY	Buyouts are authorized beginning October 1, 1996, and before December 31, 1997, (i.e., on or before December 30) but only when the employee voluntarily separates under a program provided by the agency. There are no delayed separations allowed under this law.	Buyouts were authorized between March 30, 1994, and March 31, 1995. Agency heads could delay the separation of employees until March 31, 1997, if continued employment was required to ensure the performance of the agency mission.
APPROVAL and PLANNING	Law requires agency to submit a detailed "strategic plan" to Congress outlining the intended use of buyouts. Agency plans must first be forwarded to OMB. Upon OMB approval of the plan, the agency then must forward it to Congress.	Agencies were required by OMB to submit a downsizing plan to OMB prior to obligating buyouts and receive an allocation of approved buyouts.
AUTHORITY	Buyouts are payable only to the extent necessary to eliminate the positions and functions identified in agency strategic plan	Buyouts payable by the agency head to avoid or minimize the need for involuntary separations.

ELIGIBLE EMPLOYEES AN EMPLOYEE IS ELIGIBLE TO RECEIVE A BUYOUT UNDER THIS LAW IF THE EMPLOYEE:	■ meets the definition of "employee" in 5 USC 2105 (which covers employees in the Senior Executive Service, competitive service, and excepted service, including the Foreign Service); ■ receives a buyout offer from the agency during the time period from October 1, 1996, through December 30, 1997; ■ accepts the buyout offer; ■ voluntarily retires, retires under voluntary early retirement, or voluntarily resigns during the approved buyout window; ■ is serving under appointment without time limit; ■ has 3 years of continuous service	■ meets the definition of "employee" in 5 USC 2105 (which covers employees in the Senior Executive Service, competitive service, and excepted service, including the Foreign Service); ■ is an employee of county committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b); ■ receives a buyout offer from the agency during the time period from March 30, 1994, through March 31, 1995; ■ accepts the buyout offer; ■ voluntarily retires, takes voluntary early retirement, or voluntarily resigns during the approved buyout window or on a date delayed by the agency to ensure performance of agency mission, but no later than March 31, 1997; ■ is serving under appointment without time limit; ■ has 12 months of continuous service
INELIGIBLE EMPLOYEES AN EMPLOYEE IS INELIGIBLE TO RECEIVE A BUYOUT UNDER THIS LAW IF THE EMPLOYEE:	■ is a reemployed annuitant; ■ has a disability on the basis of which the employee is or would be eligible for a disability retirement; ■ is serving under an appointment with a time limitation; ■ has not been on-board with the agency without a break in service for 3 continuous years; ■ is in receipt of a specific notice of involuntary separation for misconduct or unacceptable performance; ■ is completing service in order to receive an approved "delayed buyout" under the Federal Workforce Restructuring Act of 1994; ■ has received a buyout before but has not repaid it; ■ is covered by statutory reemployment rights from another organization; ■ has received a recruitment or relocation bonus within 24 months of separating to receive a buyout ; ■ has received a retention bonus within 12 months of separating to receive a buyout.	■ is a reemployed annuitant; ■ has a disability on the basis of which the employee is or would be eligible for a disability retirement; ■ is serving under an appointment with a time limitation; ■ has not been on-board with the agency without a break in service for 12 continuous months;
AMOUNT OF BUYOUTS	equal to the lesser of: severance pay calculation; $25,000; or an amount determined by the agency head.	equal to the lesser of: severance pay calculation; or $25,000

REEMPLOYMENT REPAYMENT REQUIREMENT	Employee must repay the total amount of the buyout (gross, before taxes and deductions) in full prior to the employee's first day of employment if the employment is with the Government of the United States or under a personal services contract within 5 years of separating to qualify for and receive a buyout.	Employee must repay the total amount of the buyout (gross, before taxes and deductions) if the employment is with the Government of the United States or under a personal services contract within 5 years of separating to qualify for and receive a buyout.
WAIVER OF REPAYMENT	There is no legal authority to waive the repayment requirement.	Waivers of the repayment requirement are allowed in rare cases in which the buyout taker is the only applicant uniquely qualified for the position. If the reemployment is under a personal services contract, no waiver is allowed.
FTE REDUCTION	The total number of funded positions in the agency paying buyouts must be reduced by one full-time equivalent position for each incentive paid.	The total number of funded positions in the government must be reduced by one full-time equivalent position for each incentive paid.
CEILING REDUCTION -- GOVERNMENT-WIDE	None	Total executive branch employment must reach specific levels in each year from FY94 through FY99. Office of Management and Budget will monitor employment levels and freeze governmentwide hiring if lower levels are not met.
ADDITIONAL PAYMENT TO THE RETIREMENT FUND	Agency must pay a 15 percent contribution to the Civil Service Retirement and Disability Fund for each incentive paid to an employee covered by CSRS or FERS regardless of the type of buyout separation. The 15 percent is based on an employee's final basic pay.	Agencies must pay the Civil Service Retirement and Disability Fund an amount equal to 9 percent of the final basic pay of any CSRS employee who receives an incentive and takes a voluntary early retirement. In addition, in FYs 95 through 98, all executive agencies (except GAO) must pay $80 per year to the retirement fund for each employee covered by CSRS or FERS as of March 31 of each year. These payments are required regardless of whether an agency pays incentives.

Guide to Implementing Voluntary Separation Incentive Payment Programs Under P.L. 104-208

The purpose of this guide is to assist agencies in the use of Voluntary Separation Incentive Payments, a valuable tool to help them restructure their workforce while avoiding or minimizing involuntary separations.

A. What is a Voluntary Separation Incentive?

A separation incentive is a lump-sum amount an agency pays to an employee after his or her voluntary separation. The amount is equivalent to the lesser of severance pay an employee would receive, $25,000, or an amount determined by the agency head and is paid from funds the agency would use for the employee's salary.

An incentive shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit. It shall not be taken into account in determining the amount of any severance pay to which an employee may be entitled under 5 USC 5595 based on any other separation.

An incentive shall not be paid unless an employee separates voluntarily by retirement, early retirement, or resignation under an approved buyout offer *before* December 31, 1997. No agency shall coerce any employee to take an incentive.

B. Legal Authorities

Certain Executive agencies are authorized by Public Law 104-208 to offer Voluntary Separation Incentive Payments (buyouts) to employees who voluntarily **resign, retire, or retire under voluntary early retirement**, The law does not apply to any agency which has authority under other legislation to offer voluntary separation incentive payments during any portion of FY 1997 and does not cover legislative or judicial agencies. The law *does* apply to agencies with buyout authority under the Department of Transportation Appropriations Act, 1997.

These agencies have (or had) specific authority to offer buyouts during a portion of FY 1997 and therefore, are not authorized to pay incentives under
Public Law 104-208:

Department of Agriculture
Department of Defense
Agency for International Development
Central Intelligence Agency
National Aeronautics and Space Administration
Railroad Retirement Board and RRB Office of Inspector General
Smithsonian Institution

Buyouts are available under P.L. 104-208 until December 30, 1997. All separations for a buyout must take place before December 31, 1997.

Although not required, voluntary early retirement authority, used in conjunction with incentives, can increase the number of workers who leave voluntarily. Early retirements may be authorized for employees under the Civil Service Retirement System (CSRS) by 5 U.S.C. 8336(d)(2) and for employees under the Federal Employees Retirement System (FERS) by 5 U.S.C. 8414(b)(1)(B). OPM's FY 1997 Voluntary Early Retirement guidance package is included for agencies seeking approval to use early retirement. If an agency wishes to use early retirement and does not yet have authority for FY 1997, please contact OPM's Workforce Restructuring Office on 202-606-0960.

C. Obtaining Approval to Offer Incentives

Subsection (b) of P.L. 104-208 requires the head of each agency, prior to obligating any resources for voluntary separation incentive payments, to submit an "Agency Strategic Plan" outlining the intended use incentive payments to 4 separate committees of the Congress.

This plan must include a proposed organizational chart which outlines the composition of the agency once such incentive payments have been completed. The plan must also include:

- 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.

OMB Bulletin 97-02, October 24, 1996, provides guidance describing these plans to agencies. All agencies wishing to use incentives should work with their OMB representative to complete the appropriate plans. After OMB approves the plan, the agency must forward the 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 as required under the law.

D. Reduction of Federal Positions in the Agency Paying Buyouts

P.L. 104-208 requires that the total number of funded positions in the agency paying buyouts is to be reduced by one position, on a full-time equivalent basis, for each incentive paid, or due to be paid, under P.L. 104-208. The agency head is responsible for ensuring compliance with the Act's requirement for FTE reductions. OMB will monitor monthly FTE reports against the agency's plan for the use of buyouts.

Agencies should work with their OMB representative to make sure that FTE reductions are occurring in compliance with OMB's guidance regarding this law.

Delayed buyouts which were approved under the Federal Workforce Restructuring Act of 1994 (P.L. 103-226) are subject to the Governmentwide reduction in FTEs required by that law and are not to be counted as reductions under P.L. 104-208.

Total employment in all executive agencies, including DOD and CIA but not GAO, is still to be reduced in each fiscal year from through FY 99 under the Federal Workforce Restructuring Act. There is no additional Governmentwide total employment reduction contained in P.L. 104-208 and the law does not change the annual reductions required in the Federal Workforce Restructuring Act of 1994.

E. Additional Payments to the Retirement Fund

For **every** separation of an employee covered by CSRS or FERS with an incentive under P.L. 104-208, the agency paying the buyout must pay the Civil Service Retirement and Disability Fund (CSRDF) an amount equal to 15 percent of the final basic pay of every employee covered by CSRS or FERS who receives an incentive authorized under this statute. This includes separation with an incentive by optional retirement, voluntary early retirement, or resignation.

NOTE: The 9 percent contribution required under the Federal Workforce Restructuring Act of 1994 covers early retirements with a buyout paid under that law and Defense buyouts under 5 USC 5597 if the retiree is covered under CSRS. The 9 percent contribution does not apply to buyouts paid under P.L. 104-208.

Final basic pay means the total amount of basic pay that would be payable to an employee for a year of service, computed using an employee's final rate of basic pay, with adjustments for less than a full-time work schedule.

Discontinued service retirements and separations or retirements without incentives, for example, are not subject to the additional payment requirement.

F. Additional Payments for Buyouts Paid Under <u>NON-P.L. 104-208</u> Buyout Programs

DOD buyouts and delayed non-Defense buyouts approved under the Workforce Restructuring Act, remain subject to a 9 percent payment. This payment covers only CSRS employees separating with an incentive under a voluntary early retirement authority. Other agencies with separate buyout legislation may be subject to different CSRDF payment requirements as described in the legislation covering that agency.

Under P.L. 103-226, through FY 98, all executive agencies (except GAO) must continue to pay $80 per year to the retirement fund for each employee covered by CSRS or FERS as of March 31 of each year. These payments are required regardless of whether an agency pays incentives under the Federal Workforce Restructuring Act, Public Law 104-208, or any other incentive law.

G. Remitting Additional Agency Payments to CSRDF

OPM's Financial Management Division (FMD) will be issuing a Payroll Office Letter P-96-08 to provide agencies with detailed instructions for reporting and remitting the 15 percent payment to the CSRDF. Effective with separations occurring on or after October 1, 1996, employing agencies must calculate and remit to the CSRDF the supplemental VSIP contributions required by law. Contact the Financial Management Division at (202) 606-0666 if you have questions.

H. Determining the Amount of an Employee's Incentive Payment

Use 5 USC 5595(c) to compute the amount as if an employee were eligible for severance pay, even though the employee is not required to be eligible for it. No reduction is made for any prior severance pay an employee has received.

In no case may an employee buyout exceed $25,000. However, unlike the Workforce Restructuring Act, an agency has discretion to pay less than the full amount of severance as figured under the formula in 5 USC 5595(c) or less than the $25,000 maximum.

Agencies wishing to set amounts lower than the $25,000 maximum should be careful to set amounts that are fair, equitable, and at a value which is adequate to trigger the desired number of separations. These amounts should be clearly defined in the agency strategic plan and should be communicated to employees when offers are made.

I. Who is Eligible to Receive Incentives Under P.L. 104-208?

The law contains criteria which can exclude an employee from eligibility for a buyout. In order for an employee of an agency to separate and receive a buyout, you must determine if the employee is eligible under the law.

At minimum, the employee must work for an agency covered under P.L. 104-208, (see part B), and the agency must have an Agency Strategic Plan for the use of buyouts which has been approved by OMB and forwarded to the appropriate Congressional committees as described in part C of this guidance. Assuming that these basic criteria are met, an employee may be able to receive a buyout under this law if the employee:

- meets the definition of "employee" in 5 USC 2105 (which covers employees in the Senior Executive Service, competitive service, and excepted service, including the Foreign Service);
- receives a buyout offer from the agency during the time period from October 1, 1996, through December 30, 1997 ;
- accepts the buyout offer;
- voluntarily retires, retires under voluntary early retirement, or voluntarily resigns during the approved buyout window, and not later than December 30, 1997;
- is serving under appointment without time limit (Employees under appointments having a non-competitive conversion eligibility to a career or career-conditional appointment after a set period, e.g., a VRA or Presidential Management Intern, are covered);
- has 3 years of continuous service (paid leave and nonpay status are creditable); and
- is not subject to any of the exclusions listed below.

An employee is NOT eligible to receive a buyout under this law if the employee:

- is a reemployed annuitant;
- has a disability on the basis of which the employee would be eligible for a disability retirement;
- is serving under an appointment with a time limitation;
- has not been on-board with the agency without a break in service for 3 continuous years;
- is in receipt of a specific notice of involuntary separation for misconduct or unacceptable performance;
- is completing service in order to receive an approved "delayed buyout" under the Federal Workforce Restructuring Act of 1994;
- has received a buyout before but has not repaid it;
- is covered by statutory reemployment rights from another organization;
- has received a recruitment or relocation bonus within 24 months of separating to receive a buyout.
- has received a retention bonus within 12 months of separating to receive a buyout.

Incentives can be used with any type of voluntary separation--**resignation, regular optional retirement, or voluntary early retirement** (but not disability retirement). Agencies with questions regarding eligibility requirements for retirements based on voluntary separations will find them in the CSRS and FERS Handbook for Personnel and Payroll Offices (formerly FPM Supplement 830-1).

J. Reemployment and the Buyout Repayment Requirement Under P.L. 104-208

Once an employee has separated to receive a buyout, the employee cannot accept employment for compensation with the Government of the United States or under a personal services contract for a period of 5 years unless the employee repays the entire buyout.

REPAYMENT IS MADE TO THE AGENCY WHICH PAID THE INCENTIVE AND MUST BE COMPLETED *IN FULL* PRIOR TO THE INDIVIDUAL'S FIRST DAY OF EMPLOYMENT.

The employee must repay the entire amount of the voluntary separation incentive payment, including all deductions for taxes, etc., to the agency that made the payment. Repayment will be made as provided in 5 U.S.C. 5514, as implemented in Part 550, Subpart K, of title 5, Code of Federal Regulations, or other appropriate authority but must be collected in full prior to reemployment. When the reemployment requiring repayment of the voluntary separation incentive payment occurs, the employing agency must contact and coordinate collection efforts with the agency that made the payment.

Employment under this law means compensated employment of any duration, under any authority, in the Federal Government of the United States, within 5 years of the date of the separation on which payment of an incentive is based. This includes employment with the United States Postal Service or any other independent establishment of the United States Government, work as an expert or consultant, etc.

Volunteers are not considered to be employees of an agency. Since volunteers are not appointed to civil service positions in an agency, their volunteer work would not trigger the repayment provisions.

Unlike the Federal Workforce Restructuring Act of 1994, there is no authority to waive repayment. Repayment is required in all cases of reemployment for compensation under this law.

K. Planning for Effective Use of Incentives

Incentives provide a quick, effective, and targeted tool to assist with downsizing and restructuring an agency. Because of their voluntary nature, they also are less stressful for employees than a reduction in force. However, careful planning is necessary to assure that incentive programs do not have an adverse impact on an agency's financial situation or ability to carry out essential functions. Additionally, working within labor partnerships and bargaining agreements, appropriate, are important aspects of the planning process.

Agencies should work closely with their OMB representative to structure a plan that reduces where needed, prevents involuntary separations, and meets the requirements outlined in subsection (b) of P.L. 104-208 as explained in Part C.

Agency planners must carefully consider the mission of the agency, which functions will be impacted, what positions are to be reduced or eliminated, and what the final organizational structure will be before initiating a buyout program under this law. At minimum, the law requires an agency to prepare and submit a strategic plan which outlines the intended use of incentive payments and a proposed organizational chart for the agency once buyouts have been completed.

Under the law, the agency's plan shall include:

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.

To determine the positions, locations, and/or organizational units to cover, agencies should consider:

- The recommendations of the National Performance Review (NPR) to reduce supervisory layers, reduce overhead positions and administrative jobs, and take other actions to improve productivity.

- Which positions in a particular organization or occupation are critical to accomplishing the agency's mission.

- Whether replacing employees in positions in certain geographic and organizational locations would be difficult or costly.

- Whether the resulting vacancies would provide an opportunity for placement of other employees in surplus positions.

- Whether reassigned employees would be capable of assuming the duties of vacated positions without significant loss of productivity or the need for extensive retraining.

- Whether the organization can afford the overall loss of experience and the resulting adverse effect on mission accomplishment that would result from losing employees in certain occupational series and grade levels or organizational/program components.

- The results of surveys or other agency acceptance rates (see "Projecting Separations" in this Guide).

- Costs of separation with a buyout (lump sum annual leave payments, 15 percent payment to retirement fund, buyout payment).

Examples of the kinds of jobs which should be excluded by agencies offering incentives:

- Jobs with particular skill requirements that may make them difficult to refill from within the agency;

- Positions that will not result in the elimination of functions or positions identified by the strategic plan or positions that will not provide vacancies for employees displaced by the elimination of functions or positions identified by the strategic plan.

- Positions that may require extensive relocation costs to refill (e.g., essential positions in overseas areas); and

- Jobs in high-cost metropolitan areas where it may be difficult to replace employees who have separated.

Here are some areas to consider when planning.

Setting Targets

Agencies should be careful to set specific targets for position and dollar/staff year savings to be achieved. Take into account the number and amount of incentives the agency can offer, and its funding and employment levels, and the fact that the agency's total full time equivalent level will be reduced by the total number of buyouts paid. Incentives are targeted at positions based on objective factors such as locations, organizations, and/or occupations, but may not be targeted on the basis of individual or personal factors.

A key problem is how to avoid offering more separation incentives than an agency can afford, in terms of money, lost talent, and lost positions. <u>It is, therefore, critical, for agencies to establish specific targets for groups of positions with dollar and staff year savings to be achieved.</u> Opening an offer to the first 200 takers of all types might result in losing the right numbers but the wrong employees in terms of the agency's mission. Alternatives include offering incentives to specific occupations, components, grades, etc., possibly at staggered intervals. At the same time, an agency does not want to be so restrictive in its offers that an insufficient number of employees accept them.

These targets will facilitate internal monitoring of incentives once they have been offered. Setting targets will also enable the agency to make necessary adjustments in the program while offers are underway.

Projecting Separations

An important aspect of determining coverage for incentive offers is to estimate how many of those employees who are eligible will actually take an incentive and leave. One approach is to survey employees in advance for non-binding (perhaps anonymous) indications of interest. This package contains several sample survey letters that agencies may tailor to gauge interest in buyouts.

Another approach is to look at the experience of agencies that already have used separation incentives. Their experience can help other agencies project separation rates. Generally, incentives have appeared to be more attractive to lower and mid-graded workers than to higher graded employees because a $25,000 buyout represents a greater proportion of a lower graded employee's salary than it would to a higher paid employee. However, buyouts have been targeted and most effective at reducing higher graded positions which are more often occupied by employees who are more inclined to retire based on an offer.

Timing

Timing is very important because almost all of the savings from voluntary reductions come in the years following the year in which the buyouts are paid. Additionally, the earlier in the fiscal year that incentives are paid, the greater the savings potential is for that year.

The break-even date (the last date in a fiscal year on which savings offset separation costs) varies by pay level, length of service, retirement system, amount of the buyout, and other factors. For example, the financial break-even date for a GS-14's early retirement, with an incentive, might be in April. For a GS-7, however, it is more likely to have been the previous November (the second month of the fiscal year). The difference is because the maximum buyout is $25,000, an amount representing almost a full year's pay at GS-7, but only about five month's pay at GS-14.

The key financial factors are:

> **Savings in Pay and Benefits.** In addition to salary, agencies typically pay 30% of pay for the benefits of employees in the Federal Employees Retirement System and around 14% for those in the Civil Service Retirement System.

Payment for annual leave balance. For most retirees, figure the equivalent of six weeks' pay. This assumes the retirees have the 240-hour annual leave maximum that can be carried over into a new leave year.

For resignations, figure on a lower annual leave balance. It should be possible to come up with good estimates from agency leave records.

Dates for Paying Incentives. Incentives are paid as a lump sum from funds appropriated for salaries in the year of separation. Severance pay is paid over time, at the same rate as salary, so it can extend into the next fiscal year.

Payment of 15% to Civil Service Retirement Fund. For employees covered by CSRS or FERS who accept a buyout, agencies pay 15% of the employees' final basic pay into the retirement fund. Since this payment applies to all separations with an incentive, the break-even point for each will differ depending on the pay level of the employee. Final basic pay means the total amount of basic pay that would be payable to an employee for a year of service, computed using an employee's final rate of basic pay, with adjustments for less than a full-time work schedule.

Example:

A 50 year old GS-14, step 10, with 27 years of service, earning Washington, DC locality pay ($81,217), takes early retirement with a $25,000 incentive on November 1, 1996.

Salary paid to employee from October 1, 1996, through November 1, 1996 (approximate)	($ 6,250)
Incentive Payment	($25,000)
Lump Sum Leave (240 hrs)	($ 9,371)
15% to CSRDF (Retirement Fund)	($12,182)
All costs to Agency for FY 96	($52,753)
Net Salary & Benefits Saved (November through September)	**$28,464**
Separation costs (excludes October salary paid)	**($46,503)**

This example shows savings from a buyout separation on a particular date. What if the agency wants to know the latest date this same GS-14 could retire before costs would exceed savings?

To calculate a break-even date, determine how long someone must be off the payroll for payroll savings to equal the costs of separation. In the example, the cost of separation is $46,503, which is the equivalent of about 29 weeks' salary and benefits. This means the agency would need the GS-14 to separate by mid-March -- 29 weeks before the end of the fiscal year.

To calculate an agencywide break-even date, an agency would use average costs.

L. Setting the Incentive Window

After determining its break-even point, an agency needs to set a time period in which incentives will be offered. This window may be at any time and for any period as long as:

- it is included in the agency strategic plan and the planned window is approved by OMB;
- employees separate during the agency's approved window; and
- no employees separate later than December 30, 1997.

An agency may close the window early if its reduction goal has been met.

An agency may set window periods which occur at different times for different categories of positions in the agency. These varying window periods should be spelled out in the agency's plan to OMB and Congress and clearly communicated to employees. While the greatest savings to an agency would accrue with separations as early as possible in a fiscal year, an agency may have reasons for staggering the windows, for example, planning needs, adequate time to advise employees, completion of an essential agency function, etc.

An agency can choose to have 2 different types of "windows." During the first window, the agency could offer incentives, take employee applications, approve incentives, and establish separation dates for approved employees. All of this should be done based on the agency's strategic plan. During the second window, employees who have been approved to receive a buyout could separate.

If an agency chooses to utilize 2 separate windows as described above, this plan and the associated schedule should be clearly communicated to affected employees so that the employee has adequate time for planning for his or her separation or retirement. In no case may the agency approve a buyout and schedule a separation date which occurs after December 30, 1997. P.L. 104-208 does not include a "delayed buyout" provision as included in the Federal Workforce Restructuring Act of 1994.

M. Determining Coverage of Incentive Offers

Buyout programs should focus and concentrate offers on positions which directly further the agency's strategic restructuring plan (See Part K). An important decision an agency makes is how to control incentive offers because these offers determine who will leave the agency. Unlike other workforce reduction techniques such as attrition or reduction in force, which often result in skill imbalances and the need for extensive retraining, agencies can more precisely target and control incentive offers.

Incentives need not be limited to positions the agency intends to abolish. Properly managed, incentives can be used to create vacancies the agency can use to place surplus employees from other parts of the organization. It makes no sense, however, to offer incentives to employees in critical jobs or in jobs that cannot be refilled with surplus employees.

The agency head or designee has considerable discretion to tailor the use of incentives to meet restructuring goals. (The agency head may delegate authority to other agency officials to make these decisions for various agency components.) The agency may offer incentives to all eligible employees of the agency or only to employees in designated:

- organizational units,
- geographic locations,
- occupational categories
- grade levels or series, or
- any combination of these factors,

but may not select individual employees on a personal basis to receive incentives.

If an agency offers voluntary early retirement in conjunction with incentives, it needs to look at the impact of retirement eligibility in determining coverage. An employee who wishes to retire must meet the requirements for retirement on the separation date (See Part P, "Employee Separation Dates" in this Guide.) Thus, in determining coverage, an agency will need to have a policy on whether to accept applications from pre-retirement eligibles who are not fully eligible at the time of application, but who will meet retirement eligibility when separated.

Agencies should be aware they have authority, if they choose to use it, to release employees from certain service agreements where the agency has paid benefits such as training, relocation costs, recruitment bonuses, etc. Generally, the regulations covering these benefits discuss waiver authority.

An agency may not coerce an employee to separate with an incentive or deny an employee an incentive based on a factor not authorized by P.L. 104-208.

N. Giving Employees Information

Just as agencies need information to make sound choices, employees will be reluctant to decide to separate without full information. Agencies can improve results by giving employees as much information as possible as early as possible. The Q&A's at the end of this Guide may be helpful. In addition, OPM has published "The Employee's Guide to Buyouts Under Public Law 104-208" which answers a broad range of employee questions. This guide has been revised to reflect the new legislation and a copy is attached for reproduction and distribution. The CSRS and FERS Handbook for Personnel and Payroll Offices (formerly FPM Supplement 830-1) contains detailed information on the eligibility requirements for and computation of retirement benefits.

O. Processing Applications

Once an agency has announced incentive offers, it should accept requests from all eligible employees. The agency may not select employees on a personal basis to receive offers.

Incentives are not employee entitlements. Therefore, agencies are not obligated to honor all employee applications, as long as there is a fair and objective basis used to make such decisions, and employees are advised of this when they are invited to submit applications.

Fair and objective application procedures are one of the most important elements of any incentives program. Because of their high visibility, these procedures are one of the key standards by which the effectiveness of an agency program will be judged.

Two possible methods for approving applications are order of receipt of application or order of separation date with the earliest dates accepted first. Regardless of the method used, it is best to tell employees of it in advance since it is a condition of approval. Because some employees may wait until the latest date possible to apply, the agency will want to be sure its method covers these eventualities.

An agency can lessen the possibility of last minute applications by sending frequent, periodic reminders to employees about the incentive offer and continuing to offer guidance. Approving applications on a first-come basis, or by the earliest separation dates, also can sometimes help, but can also reduce the effectiveness of targeting the offer to positions where reductions are needed. It is wise to emphasize to employees that the agency will close the window early if it meets its reduction goal prior to the end of the window. Periodically, the agency might want to tell employees how many applications it has approved. Finally, the agency may need special policies for approving applications on the last day of the window--especially if applications are accepted at more than one location. For example, this might include --

- setting the deadline as noon on the last day,
- requiring that last day applications be delivered to a particular person,
- using service computation date, or some other predetermined fair and objective method, to choose among an excess number of applications on the last day of the window,
- setting up a hotline for applicants to call after normal business hours to learn whether their application was approved, and
- publicizing these procedures to all employees at a date close to the end of the window.

P. Employee Separation Dates

To receive an incentive, employees must separate during the agency's buyout window period (in no case can this be later than December 30, 1997). An agency may not separate any employee for an incentive after December 30, 1997.

Agencies should not approve a buyout separation date solely for the employee's convenience or solely to enable an employee to reach retirement eligibility. Buyout separation dates should reflect an agency's downsizing and reduction needs.

Agencies will generally offer voluntary early retirement in conjunction with incentives. Normally, the window for early retirement coincides with the window for incentives. If the employee does not meet the criteria for early retirement at the time of application for a buyout, he or she must meet it when separated with an incentive.

NOTE: There is no provision to allow an employee to credit the employee's annual or sick leave time toward gaining eligibility for voluntary retirement to receive an incentive.

An employee who has agreed to accept an incentive but has not yet resigned or retired with the buyout is not exempt from other types of separation due to reduction in force, performance reasons, or conduct reasons prior to the approved date. An agency may not change a permanent employee to a time-limited appointment on the basis of the employee's agreement to a separation date with an incentive (employees under time-limited appointments are not eligible to receive an incentive).

If an agency gave an employee a specific separation date but needed to conduct a RIF prior to that date, it might let the employee choose to separate (with incentive) prior to the RIF. Otherwise, the employee would compete in the RIF. If not separated in the RIF, he or she would be separated later with an incentive on the specific date in accordance with their agreement. Agencies should carefully review pending buyouts in these cases to determine whether anything is gained by paying an employee an incentive to separate when the employee will otherwise be separated.

An agency should separate an employee only on an agreed-upon specific date, unless the employee agreed to a new date. If the agency requires a change in the date and the employee is not inclined to change, the agency is not obligated to make the separation payment.

Setting separation dates give an agency flexibility, but the potential for complications brought about by distant separation dates is great. Among the factors to consider in setting separation dates that will not occur immediately are the following:

- Exceptions and long delays in separations reduce an agency's ability to meet its anticipated reduction goal by a particular date.

- Employees may attempt to withdraw their resignations or retirements before the effective date, even though they have agreed to a separation date. To avoid the disruption to the agency's ability to meet its reduction goal, the agency should offer the incentive in the form of an agreement. The agreement language would state that in return for the benefit of receiving a separation incentive, the employee agrees to resign (or retire) during the window period designated by the agency. The agreement should also contain language that the employee has freely and knowledgeably entered the agreement. Preferably, both the employee and an agency official would sign the agreement.

  In a 1994 Merit Systems Protection Board decision (Cook v. Department of Defense, SL-0752-93-0406-I-1, June 22, 1994), MSPB found that employees who offer to resign in return for a buyout must be allowed to withdraw their buyout agreement prior to separation unless the agency can demonstrate a valid reason for denying the request. The Board cited situations in which an agency had already made commitments to place another employee in the position, or had abolished the position, or would be forced to use RIF procedures if the employee changed his or her mind as examples of valid reasons for denying the request to withdraw the buyout agreement.

A decision by the Merit Systems Protection Board, (MSPB), McClain v. U.S. Postal Service, 40 M.S.P.R. 66 (1989) held that a signed and executed settlement agreement constituted the employee's resignation from the agency. Unless the agency offers the separation incentive in agreement form, third parties have held that employees may later withdraw their agreed-upon resignations or retirements before they are effected unless the agency can demonstrate that such a withdrawal would cause undue disruption to the agency's mission.

Thus, it is essential that agencies be prepared to act quickly after buyout offers have been accepted. Agencies are encouraged to construct buyout offers to allow employees enough time to make this important decision, but limit the length to minimize changes in acceptance resultant from employees rescinding buyout offers.

Q. Personnel Office Functions During the Buyout

In addition to its participation in agency decisions on the open window period, coverage, and other policy aspects of incentives, the personnel office plays a major role in seeing that the program succeeds.

Agencies negotiate or consult, as appropriate, with unions representing affected employees.

Agencies must give employees complete information and keep them informed. Initially, many agencies send a general memorandum to all employees notifying them of the availability of incentives, how requests will be handled, and the positions excluded from eligibility. The memo usually provides a personnel office or other contact point where employees can pick up the information and forms they will need, and may also announce a group session to discuss the offers and related matters. Employees who are still interested can be given the opportunity for personal counseling and, if eligible for retirement, an annuity computation by personnel office staff. Some agencies also send individual letters to those eligible for voluntary early retirement to provide them with similar information. An agency may want to consider the use of a hotline, E-Mail updates, bulletin board services, etc., to respond to employee inquiries. The Office of Personnel Management will post agency buyout plans, announcements, and updates on its MAINSTREET and Federal Job Opportunities Board electronic bulletin board services if agencies wish to forward the information to OPM. Contact the Workforce Restructuring Office at 202-606-0960 for details or simply E-Mail your plan to *gpkeller@opm.gov*. Faxes can be sent to 202-606-2329.

Once applications for incentives have been accepted, the personnel and payroll offices will need adequate time to process the incentives, retirements, and resignations. The proper and speedy processing of retirement applications is always a serious concern of retiring employees, and it becomes even more so in a situation where large numbers have retired. Thus, agencies should provide for adequate staff to assure that applications and supporting documentation are quickly processed and sent to OPM.

R. Special Factors for Employees to Consider

Agencies must make sure all employees understand that their decision to leave with an incentive is entirely voluntary. Employees may not be coerced to resign or retire.

Probably the most significant factor for an employee to consider when accepting an incentive offer is the repayment requirement which becomes effective beginning the day the employee separates. Agency officials should repeatedly stress the ramifications of this statutory repayment requirement to any employee considering a buyout.

<u>It is critical that the employee understand the following points before separating:</u>

- If the buyout taker returns to work with the Government of the United States within 5 years of separation with a buyout, the individual must repay the entire amount of the incentive to the agency which paid it.

- Repayment must be made IN FULL prior to the employee's first day of reemployment. This means that the employee must repay the gross amount of the buyout, before taxes and withholdings were subtracted. (i.e., An employee who received a $25,000 buyout and took home $15,000 after taxes and withholdings must repay $25,000). The employee is responsible for settling the overpayment of money withheld (i.e., state and local taxes, FICA, etc.) with the proper agency after repaying the incentive.

- Employment with the Government of the United States includes employment under a personal services contract. Employees should have the employing agency carefully review the terms and administration of any potential contracting arrangement the buyout taker may enter into prior to accepting employment on a contract with the Government to avoid triggering the repayment requirement. There is no waiver of the repayment requirement once it is triggered.

- There is no exception to the repayment requirement under this law.

  NOTE: Unlike the previous buyout law, OPM does not have the authority to consider ANY waiver of the repayment requirement for any reason.

- Employment with the Government of the United States means compensated employment of any duration, under any authority, in the Federal Government of the United States, within 5 years of the date of the separation on which payment of an incentive is based. This includes employment with the United States Postal Service or any other independent establishment of the United States Government, work as an expert or consultant, etc.

Agencies using incentives under P.L. 104-208 should include in their applications for incentives a statement telling employees they must repay the full incentive if employed in the Federal Government under any type of appointment or under a personal services contract within 5 years after separation with an incentive. Repayment for employment after a buyout may **NOT** be waived.

DOD and CIA employees are subject to a repayment requirement if they accept incentives under their specific agency legislation after March 30, 1994. However, under P.L. 103-226, the above repayment and waiver provisions do not apply to DOD employees reemployed under a personal services contract.

Employees should be advised that since voluntary early retirement is considered voluntary, any subsequent reemployment with the Federal Government can occur only as a reemployed annuitant. Also, an individual who accepts an incentive is not eligible for any programs aimed at employees who are involuntarily separated, such as placement assistance programs for displaced employees.

Another major consideration for employees in deciding whether to choose early retirement is the reduction for age in annuities under CSRS. A basic annuity is reduced by 2% for each year (1/6 of 1 percent for each full month) an employee is under age 55 at the time of retirement. Under FERS there is no age reduction for voluntary early retirement but if an employee who elected FERS is entitled to a CSRS component, the CSRS component will be reduced using the CSRS rules. An employee under FERS who is not eligible for voluntary early retirement is eligible for an immediate annuity if he or she has 10 years of service and has reached the minimum retirement age (55 if born before 1948, and gradually increasing to 57). This type of benefit is referred to as "MRA+10" and is subject to an age reduction if the employee is under 62.

An employee who has decided to retire should consider the effective date of annuities. For employees who retire voluntarily under CSRS after the third of the month, their annuity does not begin until the first of the next month. Most CSRS employees thus want to retire by the third of the month. Under FERS, all voluntary retirements begin on the first of the month after separation, except that an "MRA+10" benefit may be delayed to age 62, at the retiree's option.

Employees also should be cautioned that to carry over health and life insurance into retirement, an employee must have been enrolled in the programs for at least 5 years prior to retirement, or since their first opportunity to enroll. (The recent life insurance open season does not constitute a "first opportunity" that would allow those who did not meet the 5-year requirement to carry life insurance coverage into retirement). However, employees may be eligible for a waiver of the 5-year participation requirement for health benefits (but not for life insurance).

To inform employees, agencies may want to use the Q&A's at the end of this Guide or "The Employee's Guide to Buyouts Under Public Law 104-208."

S. Waivers of 5-year FEHB Participation Requirement

In April 1994, OPM created a new automatic procedure which enables employees retiring with buyouts under the Federal Workforce Restructuring Act of 1994, and other similar legislation, to obtain waivers of the 5-year participation requirement for continuing their coverage under the Federal Employees Health Benefits Program as retirees.

OPM's Retirement and Insurance Service has issued a Benefits Administration Letter to modify its waiver policy and update the procedures for automatic waivers under P.L. 104-208. This letter can be downloaded from the downsizing areas on OPM's electronic bulletin boards [MAINSTREET (202) 606-4800; Federal Job Opportunities Board (912) 757-3100].

WHO IS COVERED BY THE AUTOMATIC WAIVER:

- Employees who accept a buyout offer and retire with the incentive on or before December 30, 1997, or the expiration date of statutory buyout authority other than P.L. 104-208.

- Employees who accept a buyout offer on or before the expiration date of the statutory buyout authority but (if provided for in the buyout law) separate after completing additional service required by the agency to insure continued performance of agency mission ("delayed buyouts").

- Employees who accept an early retirement offer *without* a buyout and separate on or before December 30, 1997 (or the expiration date of statutory buyout authority other than P.L. 104-208).

- Employees in other agencies covered by other statutory buyout authority.

WHO IS NOT COVERED BY THE AUTOMATIC WAIVER:

- Employees who are not covered by FEHB on October 1, 1996, and continuously thereafter.

T. Documenting Personnel Actions

THE LEGAL AUTHORITY CODE USED TO RECORD BUYOUT ACTIONS UNDER PUBLIC LAW 104-208 IS DIFFERENT FROM THE CODE USED FOR PREVIOUS BUYOUT PROGRAMS AND IS DIFFERENT THAN THE CODE FOR AGENCIES PAYING BUYOUTS UNDER LEGISLATION OTHER THAN P.L. 104-208. AGENCIES SHOULD SHARE THIS INFORMATION WHERE NEEDED TO ENSURE PROPER CODING OF THESE BUYOUTS. AGENCIES PAYING BUYOUTS UNDER NON- P.L. 104-208 AUTHORITY ARE CAUTIONED NOT TO USE THE AUTHORITY CODE LISTED HERE TO RECORD BUYOUTS UNDER THEIR PROGRAM.

AGENCIES USING DELAYED BUYOUTS APPROVED BEFORE MARCH 31, 1995, UNDER THE FEDERAL WORKFORCE RESTRUCTURING ACT (P.L. 103-226) MUST USE THE LEGAL AUTHORITY CODE APPLICABLE TO THAT LAW -- NOT THESE NEW CODES.

The SF 50, Notification of Personnel Action, documenting an employee's separation is used to record receipt of an incentive. Use blocks 5A-F to document the employee's resignation or retirement.

For voluntary early retirements, use NOA "303 Retirement-Special Option."

For CSRS employees, use Authority Codes "V3P/5 U.S.C. 8336(d)(2)" and "AZM/CSP, VERA No. and date."

For FERS employees, use Authority Codes "USM/P.L. 99-335" and "AZM/CSP, VERA No. and date."

For regular optional retirements, follow the instructions in chapter 30 of The Guide to Processing Personnel Actions.

For resignations, see chapter 31 of the Guide to Processing Personnel Actions.

Use blocks 6A-D of the same SF 50 to record receipt of the incentive. Use NOA "825 Separation Incentive" and Authority Code "ZAA(P.L. 104-208)." [Agencies paying buyouts under authority other than P.L. 104-208 should NOT use these codes. Agencies with employees separating for "delayed buyouts" under P.L. 103-226 should use NOA "825 Separation Incentive" and Authority Code "Z2R/P.L. 103-226."]. Enter the amount of the incentive in block 20 and leave blocks 16-19 and 21 blank.

U. Additional Assistance on Downsizing

OPM's Workforce Restructuring Office can provide guidance, resources, information, and assistance on all aspects of downsizing including buyouts, early retirement, career transition, placement assistance, reduction in force, etc. Staff members are available by phone at 202-606-0960. Faxes can be sent to 202-606-2329. The Office also maintains a Restructuring Hotline, electronic bulletin boards, a website, career transition clearinghouse, and much more.

OPM is pleased to announce the debut of an important information resource on the Internet's World Wide Web. The new site, titled "Planning Your Future -- A Federal Employee's Survival Guide" provides a wide range of critical information to Federal employees who are affected by downsizing and are attempting to make successful career transitions, especially to occupations in the private sector. The new site can be found at the following Internet address: *http://safetynet.doleta.gov.* The U.S. Office of Personnel Management is entering into a partnership with the Department of Labor to ensure the maintenance of an accurate, comprehensive, and up-to-date body of information on this new Web site.

Starting a New Career: Everything one needs to consider, including details on the job search process, going back to school, resumes and cover letters, interviewing skills, and researching the job market.

Job Opportunities: Connections to OPM's USAJOBS Internet Site (*http://www.usajobs.opm.gov*), America's Job Bank, State Job Banks, and a huge number of private sector job opportunities. Also, you will find information about starting your own business.

Career Transition Assistance Plans: All the details one needs to know about career transition assistance services available from Federal agencies.

Federal Retirement Benefits: Information on savings requirements, investing, annuities, health care and life insurance, and tax considerations. In addition, a great deal of information on keeping active in retirement, including health and travel information.

Reduction in Force: Regulations and guidance, employee guides to RIF, RIF Separation Benefits, Career Transition, and Buy-outs.

V. Reporting Results to OPM

Any agency which uses incentives under P.L. 104-208 is required to report to OPM on its use of incentives. OPM is providing a special reporting form which must be sent according to the following schedule must include the data described in the attached reporting format (REPORT TO OPM ON USE OF VOLUNTARY SEPARATION INCENTIVES UNDER P.L. 104-208).

BUYOUT REPORTING SCHEDULE

QUARTER	QUARTER ENDING DATE	REPORT DUE BY
First (FY 97)	December 31, 1996	January 30, 1997
Second	March 31, 1997	April 30, 1997
Third	June 30, 1997	July 30, 1997
Fourth	September 30, 1997	October 31, 1997
Final	December 31, 1997	January 30, 1998

REPORT TO OPM
ON USE OF VOLUNTARY SEPARATION INCENTIVES
UNDER P.L. 104-208

Agencies using buyouts under P.L. 104-208 must provide reports to OPM on the use of incentive payments. OPM is providing this reporting format for agencies to use when submitting reports. These reports are due according the reporting schedule provided in OPM's Guide to Implementing Voluntary Separation Incentive Payments Programs Under P.L. 104-208. Please complete the following report as needed and send to the Workforce Restructuring Office, Room 6504, 1900 E Street, NW, Washington, DC 20415. A fax copy of the report is sufficient. Fax to 202-606-2329.

Cumulative Data as of: ________

Agency: ______________________________________

	QUARTER	CUMULATIVE DATA
(1) Number of voluntary early retirements with VSIP paid:		
(a) Total early retirees with VSIP:	________	________
(b) Average age of early retirees with VSIP:	________	________
(c) Average grade of early retirees with VSIP:	________	________
(d) Average amount of VSIP:	________	________

(e) List number of early retirees by grade/pay level, duty station city/state, and amount of VSIP:
(attach reports if needed)

(2) Number of voluntary early retirements, during this authority, without VSIP:		
(a) Total early retirees without VSIP:	________	________
(b) Average age of early retirees without VSIP:	________	________
(c) Average grade of early retirees without VSIP:	________	________

(d) List number of early retirees by grade/pay level and duty station city/state:
(attach reports if needed)

(3) Number of optional retirements with VSIP paid:
- (a) Total optional retirements with VSIP: ________ ________
- (b) Average age of optional retirees with VSIP: ________ ________
- (c) Average grade of optional retirees with VSIP: ________ ________
- (d) Average amount of VSIP: ________ ________
- (e) List number of optional retirees by grade/pay level, duty station city/state, and amount of VSIP:

  (attach reports if needed)

(4) Number of resignations with VSIP paid:
- (a) Total resignations with VSIP: ________ ________
- (b) Average age of resignees with VSIP: ________ ________
- (c) Average grade of resignees with VSIP: ________ ________
- (d) Average amount of VSIP: ________ ________
- (e) List number of resignees by grade/pay level, duty station city/state, and amount of VSIP:

  (attach reports if needed)

(5) Other attrition that occurred without VSIP:

Total separations: ________ ________
Other retirements: ________ ________
Other resignations: ________ ________
Other transfers: ________ ________
Other: ________ ________

(6) Number of employees who have been approved to receive a VSIP but who have not yet separated. Do not include cases in which the employee withdrew or the agency cancelled the offer. Please list by type

RESIGN ____________
VERA ____________
OPTIONAL ____________

Agencies should tailor these sample questions to fit agency circumstances. The goal is to give employees enough specific information for them to make informed decisions.

Questions and Answers on Voluntary Separation Incentive Payments under P.L. 104-208

1. What are Voluntary Separation Incentive Payments? Why are Federal agencies offering them?

Separation incentive payments are also known as buyouts. A buyout is a lump sum payment made by an agency to employees who volunteer to resign or retire during a period of major downsizing. Buyouts are a more effective, less expensive, and more humane way to reduce the workforce while minimizing or reducing the need to involuntarily separate employees.

2. Does the new law change eligibility for retirement?

No. If you are under the Federal Employees Retirement System (FERS) or the Civil Service Retirement System (CSRS), you can take regular optional retirement if you are 55 with at least 30 years of service; age 60 with 20 years of service; or age 62 with 5 years. If your agency offers early retirement, you must be at least 50 with 20 years of service or have 25 years of service at any age. An employee under FERS also is eligible for an immediate annuity if he/she has 10 years of service and has reached the minimum retirement age (55 if born before 1948, and gradually increasing to 57). An employee under CSRS must meet the 1-out-of-last-2 years coverage requirement and all employees must have at least 5 years of civilian service.

3. Who is eligible to apply for an incentive payment under the new law?

Employees are eligible if they voluntarily resign or retire under conditions established by their agency and meet other requirements in P.L. 104-208. You can apply if you:

- receive a buyout offer on or after October 1, 1996, and before December 31, 1997;
- accept the buyout offer; and
- voluntarily retire, retire under voluntary early retirement, or voluntarily resign during the approved buyout window.

However, you **are not eligible** to receive a buyout if you:

- are a reemployed annuitant;
- have a disability on the basis of which you would be eligible for a disability retirement;
- are serving under an appointment with a time limitation;
- have not been on-board with the agency without a break in service for 3 continuous years;
- are in receipt of a specific notice of involuntary separation for misconduct or unacceptable performance;
- are completing service in order to receive an approved "delayed buyout" under the Federal Workforce Restructuring Act of 1994;
- have received a buyout before but have not repaid it in full;
- are covered by statutory reemployment rights from another organization;
- have received a recruitment or relocation bonus within 24 months of separating to receive a buyout ;
- have received a retention bonus within 12 months of separating to receive a buyout;
- are a reemployed annuitant; or
- are in a position your agency has excluded.

4. What does an "appointment without time limitation" mean?

An employee on an appointment with a time limit works only until a specified date and then goes off the rolls. The employing agency sets the ending date when it hires the individual and/or when it extends the appointment. For example, temporary and term employees serve with a time limit, so they are not eligible for an incentive payment. Career and career-conditional employees and permanent employees in the excepted service have no limit so they are eligible.

5. What does "continuous service" mean?

To be eligible for an incentive payment, you must have 3 years of continuous service at the same agency with no breaks. Going off the rolls for even 1 day is a break in service and would disqualify you for an incentive payment. All 3 continuous years must be in the agency which is offering the buyout.

6. I retired from the military but am now a civilian employee. Can I apply for a separation incentive?

Yes, if you are otherwise eligible. The agency will figure the incentive payment only on the basis of your civilian service.

7. **When is the earliest I can leave with an incentive payment? When is the latest?**

This agency has been approved to set a window from *(insert date)* to *(insert date)*. In no case may an employee separate to receive a buyout under this law after December 30, 1997.

8. **If I meet all the requirements, do I automatically get an incentive payment if I leave? What if my agency gets more requests for incentive payments than are necessary to meet its reduced staffing targets. How will it decide which requests to approve?**

You are eligible to apply for an incentive payment if you meet all the requirements set by the law and your agency. Agencies may exclude certain jobs or units from the incentive payment offer. (See agency's attached list.) In handling applications, the agency must use a fair and objective method to determine the order in which applications will be approved. This agency will make decisions in the following way: *(describe method)*

9. **How much will I get if I separate for an incentive payment?**

An incentive payment is the amount of severance pay you would get, or $25,000 *(or an amount set by the agency head)* -- **whichever is less.** Severance pay is figured as if you would get it; you don't have to be eligible for severance pay. (Severance pay is normally only for people who separate involuntarily. Leaving Federal service with an incentive payment is a voluntary action.)

The amount of severance pay would be 1 week's basic pay for each of the first 10 years of your civilian service, plus 2 weeks' basic pay for each year over 10 years. An age adjustment allowance of 10% is added for each year you are over 40. (No credit is given for military service unless the service interrupted otherwise creditable civilian service and the employee returned to civilian service through the exercise of a legal restoration right.)

10. **When will I receive my incentive payment? Will it be all at once (lump sum) or monthly? Is it taxable?**

The incentive payment will be sent as soon as possible after the date of your separation. Because we must first resolve any leave errors, salary offsets, and employee debts to the Government, we cannot guarantee a specific date. Payment is also subject to garnishment for alimony and child support. The incentive payment is taxable. You will receive it as a lump sum (less Federal tax withholding, applicable State/local taxes, FICA/Medicare).

11. Do I have to make a commitment to leave if I accept an incentive payment?

You will be asked to sign an agreement with your agency which says that, in exchange for an incentive payment, you agree to resign or retire on a specific date. When employees change their minds, the agency might not be able to meet its downsizing goal. Although the separation is voluntary and generally can be withdrawn by the employee at any time prior to separation, in some cases, the agency can require an employee to honor his or her agreement and separate the employee with a buyout on the agreed upon date.

In such cases, the agency must show that harm or disruption would occur as a result of the employee's retention. In a 1994 Merit Systems Protection Board decision (Cook v. Department of Defense, SL-0752-93-0406-I-1, June 22, 1994), MSPB found that employees who offer to resign in return for a buyout must be allowed to withdraw their buyout agreement prior to separation unless the agency can demonstrate a valid reason for denying the request. The Board cited situations in which an agency had already made commitments to place another employee in the position, or had abolished the position, or would be forced to use RIF procedures if the employee changed his or her mind as examples of valid reasons for denying the request to withdraw the buyout agreement.

Employees are urged to take the application for an incentive seriously and be prepared to separate on the agreed date in the event that the agency has a valid reason to deny the employee's request to withdraw the buyout agreement.

12. What does the incentive payment agreement say?

The agreement says that you agree to leave by a certain date in return for the incentive payment. It also says that if you accept an incentive payment and subsequently become reemployed with the Government of the United States, in either a temporary or permanent status or under a personal services contract, for 5 years following the effective date of your separation, you will be required to repay the full amount of the incentive payment prior to your first day of employment. Waivers are not allowed in any cases under this law.

13. What rights and benefits would I be giving up to take an incentive payment to retire or resign rather than a RIF separation?

Selection priority under the Career Transition Assistance and Interagency Career Transition Assistance Programs;
Placement assistance;
Taking a job in Government within next 5 years without paying back the incentive payment;
Full amount of severance pay (if eligible);
Discontinued Service Retirement.

14. May I take a Discontinued Service Retirement, the lump-sum refund of retirement contributions, and an incentive payment?

No. Incentives are paid to employees who leave voluntarily. The lump-sum refund is available only to employees who were separated involuntarily no later than September 29, 1994, or who have a critical medical condition. Discontinued Service Retirement is based on an involuntary separation.

15. If I leave with an incentive payment, can I take a job in another Federal agency? Am I eligible for placement assistance?

If you have retired or resigned with an incentive payment under this law, you must repay the entire amount of the incentive if you take a job with the Federal Government within 5 years of your separation date with the incentive payment. This repayment requirement covers any kind of employment (for example, permanent, temporary, expert, consultant, reemployed annuitant) as well as personal services contracts. Repayment may not be waived.

You are not entitled to any placement assistance or selection priority because employees volunteer to leave Federal service with an incentive payment. Placement assistance is for employees who are involuntarily separated.

16. Can the agency delay my separation until after the "window" and still give me an incentive payment when I leave?

No. To receive an incentive payment under P.L. 104-208, the effective date of your resignation or retirement must be during the agency's approved window period.

17. Leaving Federal service with the incentive payment is supposed to be voluntary. If I'm eligible but don't choose to leave, can my agency retaliate by moving me to another position?

Incentives are for voluntary separations. Coercion is prohibited. However, after the window closes, later restructuring could mean the agency would have to reassign or even separate employees. To take these actions agencies would have to follow requirements of law, regulation, and applicable negotiated procedures.

Early Retirement

18. Who is eligible for early retirement?

The Office of Personnel Management (OPM) has authorized the agency to offer early retirement to eligible employees. The agency has excluded employees in certain jobs that are critical to the agency's operation. (See list attached.) The agency may change this list before the early retirement window closes. Unless you are excluded because your job is on the above list, you are eligible for early retirement as follows:

If you are under the Civil Service Retirement System (CSRS), you must have served in a position covered by the CSRS for at least l year out of the 2 years immediately before retirement. If you are under the Federal Employees Retirement System (FERS), this rule does not apply.

You must be at least 50 with 20 years of service or have 25 years of service at any age. At least 5 years must be civilian service, whether you are retiring under CSRS or FERS.

You must be serving under other than a temporary appointment;

You must have been on the agency's rolls as of *(insert date)* and you served continuously since that date without a break in service.

19. What does the early retirement "window" mean?

Each agency sets a window, or period of time, during which eligible employees retire early. Normally, this coincides with the window during which buyouts are offered. If you want to retire early, you must separate during this time period, in other words, from *(insert date)* and no later than *(insert date)*. You must turn in your application as soon as possible to make sure you can retire during the window.

20. Can anyone who is eligible and who applies for early retirement be assured of retiring early?

Just as it does with buyouts, the agency may set a limit on the number of early retirements it offers. This number should take care of all the employees who want to retire early and whose jobs are not essential to the agency's continued operations. If the agency receives more applications than it needs, the agency must use a fair objective method to make decisions, for example, order of separation date, order of receipt of completed applications, seniority, etc.).

(describe method agency will use)

21. If I take early retirement, is my annuity reduced?

CSRS employees who retire under the voluntary early retirement authority will have a reduction in their annuity of 2 percent per year for each year they are under age 55. (The reduction is 1/6 of 1 percent for each full month.) This is a permanent reduction in annuity.

Employees with only FERS service will not have their annuities reduced under voluntary early retirement. Employees with both CSRS and FERS service will have a reduction only for the CSRS portion of their service if under age 55.

Employees retiring under the MRA+10 provision before age 62 are subject to the age reduction on the entire annuity.

Special rules apply to the calculation of annuities of employees who have part-time service after 1986. The personnel office can give you more details.

22. If I take early retirement, what happens to my unused sick leave?

CSRS employees will receive service credit for any unused sick leave in determining their annuity (but they must meet eligibility requirements for retirement before the sick leave is added).

FERS employees do not receive credit. Employees who were previously under CSRS but who transferred to FERS will receive credit for either the amount of sick leave at the time of the transfer to FERS, or at the time of retirement--whichever is less.

23. Can I continue health and life insurance into retirement?

You can continue your coverage if you retire on an immediate annuity and if you have been enrolled (or covered as a family member) in a plan (not necessarily the same plan) under the Federal Employees Health Benefits program from a) the 5 years of service immediately preceding retirement or b) from service since your first opportunity to enroll or c) continuously for the full period or periods of service beginning with the enrollment which became effective no later than December 31, 1964.

An employee who does not meet the 5-year participation requirement for continuing health benefits coverage may be eligible for a waiver of that requirement (see section S). (There is no waiver provision for life insurance.)

24. What forms do I need to apply for early retirement with an incentive payment and where do I get them?

The personnel office (insert room number, phone number, and staff names) has the materials ready. You will sign: *[the following are provided as examples -- the agency should insert its requirements here]* (1) an application for retirement (2) an incentive payment agreement.

ELEMENTS OF A MODEL PROGRAM

Some tips on carrying out a smooth and efficient buyout program:

Carefully plan and prepare. Involve unions early in the process. Prepare personnel office to handle increased workload.

* **Determine agency components/occupations/grades affected by downsizing and reduction targets.**
* **Project costs and savings and determine number of incentives to be offered.**
* **Identify employees eligible for optional and voluntary early retirements.**
* **Survey employee interest in buyouts.**
* **Set a time line for the window.**
* **Decide on policies/procedures for people who change their minds about leaving.**
* **Involve payroll and develop expedited payment procedures.**

Provide employees with plenty of information--and keep it current.

* **Especially important:**
  - **What their annuity computation will be.**
  - **When incentives will be available.**
  - **Who is eligible.**
  - **What conditions are attached.**
  - **When employees may expect payment.**
* **Set up an employee hotline number. This will give employees one-stop shopping for answers about the program.**
* **Have extensive benefits counseling available to employees and spouses.**

VOLUNTARY SEPARATION INCENTIVE PAYMENTS:

SAMPLE DOCUMENTS FOR AGENCY USE

These samples may help agencies prepare for using voluntary separation incentive payments.

SAMPLE 1

LETTER ANNOUNCING INCENTIVE PROGRAM TO EMPLOYEES

MEMORANDUM FOR ALL EMPLOYEES

Subject: VOLUNTARY SEPARATION INCENTIVE PAYMENTS

This memorandum announces an opportunity for employees to apply for voluntary separation incentive payments.

New Legislation
Under Public Law 104-208, certain Executive branch agencies can be authorized to offer separation incentive payments employees who take regular or early retirement, or resign. In addition, the U.S. Office of Personnel Management has approved a voluntary early retirement authority for this agency. These programs are intended to assist this agency achieve its targeted reductions, streamline agency operations, and avoid involuntary separations through reductions in force (RIF).

Our Agency's Program
We will authorize payments of voluntary separation incentives to a maximum of *(insert number)* eligible employees who leave the agency during *(insert dates of window)*. The special incentive will be paid on the following basis: *(insert description of fair and objective method the agency will use to determine the order in which applications will be approved.)*

Eligibility
An employee **is eligible** to receive a buyout if the employee:

- occupies a position or occupation which has not been excluded from eligibility by this agency (see Enclosure);
- receives a buyout offer and before December 31, 1997 *(or insert dates of window to be used by agency)*;
- accepts the buyout offer;
- voluntarily retires, retires under early retirement, or voluntarily resign during the approved buyout window; and
- does not fall under any of the following exclusions.

An employee **is not eligible** to receive a buyout if the employee:

- is a reemployed annuitant;
- has a disability on the basis of which the employee would be eligible for a disability retirement;
- is serving under an appointment with a time limitation;
- has not been on-board with the agency without a break in service for 3 continuous years;
- is in receipt of a specific notice of involuntary separation for misconduct or unacceptable performance;
- is completing service in order to receive an approved "delayed buyout" under the Federal Workforce Restructuring Act of 1994;
- has received a buyout before but has not repaid it;
- is covered by statutory reemployment rights from another organization;
- has received a recruitment or relocation bonus within 24 months of separating to receive a buyout;
- has received a retention bonus within 12 months of separating to receive a buyout.

Amount of Payment
The amount of the separation incentive payment is an amount equal to the employee's calculated severance pay entitlement, or $25,000 *(if the head of the agency has set a maximum amount which is less than $25,000, insert the capped amount here)*, or whichever is less. Separation incentive payments are based upon the standard severance pay calculation. However, incentive payments are limited, by law, not to exceed $25,000. Severance pay equals one week basic pay for each of the first ten years of creditable Federal service plus two weeks of basic pay for each year of creditable service over 10 years. In addition, an age factor applies which increases the amount by 10% for every year your age exceeds 40 years.

Separation Agreements
Employees who apply for separation incentive payments must sign an agreement that the decision to resign or retire under these circumstances is entirely voluntary and that they agree to repay the incentive if they are reemployed by, or enter into a personal service contract with, the Federal Government within 5 years of the date of the separation on which the separation pay is based. This repayment must be made in full prior to the employee's first day of work after the buyout. If an employee is selected to receive the voluntary separation incentive payment, these agreements will serve as an agreement to resign or retire during the window period. If employees are not selected to receive a separation incentive, they will not be bound by this commitment.

Restrictions on Reemployment
Employees who accept incentive payments have restrictions placed on future employment with the Federal Government. An employee who accepts a separation incentive payment and takes employment with the Federal Government or under a personal services contract with the Government for a period of 5 years after the date of separation must repay the entire amount of the incentive to the agency that paid the incentive. Repayment must be made in full prior to the buyout taker's first day of work at the new job. Waivers are not allowed under this law.

Additional Information and Counseling
I want to emphasize that applying for a separation incentive payment is entirely voluntary on your part. To help you make this important decision, we have set up a special hotline to give you more information. TDD services and sign interpretive services are also available. Personnel specialists can provide you with computations of your separation payment and, if eligible, your retirement annuity. Formal counseling sessions are also available for you and your spouse and can be scheduled by contacting the personnel office in Room ___.

Application Procedures
In order to be considered for a voluntary separation incentive payment, you must complete an application available from your personnel office. If the personnel office has not received your application by *(insert time)* on *(insert date)*, you will not be considered for a voluntary separation incentive payment. If you will be out of town and unable to complete and deliver the application, please call the personnel office for instructions *(insert telephone number)*.

Signed
Agency Head

SAMPLE 1A

ENCLOSURE TO LETTER ANNOUNCING INCENTIVE PROGRAM TO EMPLOYEES

POSITIONS DESIGNATED FOR EXCLUSION

The occupations, positions, series, and grades for which incentives are authorized include the vast majority of jobs within the agency. However, because of critical workload needs, some positions and components have been excluded from eligibility.

A. POSITIONS EXCLUDED FROM VOLUNTARY SEPARATION INCENTIVE PAYMENTS

The occupations/grade levels for which the incentives will not be offered are:

Schedule C positions

Cost Analysts (1102, 1515)

Computer Scientists in grades GS-5 to 9

Positions covered by special salary rates

Positions in the Congressional Liaison Office

(Note to agencies: the exclusions identified above are examples only. Under the law, agencies have broad flexibility to determine the positions it will exclude from incentive offers, based on the agency's needs.)

SAMPLE 2A

APPLICATION TO RESIGN WITH VSIP

The application to participate in the voluntary separation incentive program will be available from your personnel office, or you may submit the following typewritten statement if you are **resigning**.

I HEREBY REQUEST TO RESIGN WITH A VOLUNTARY SEPARATION INCENTIVE PAYMENT EFFECTIVE __(DATE)__. MY DECISION TO RESIGN IS ENTIRELY VOLUNTARY AND HAS NOT BEEN COERCED.

I UNDERSTAND THAT IF I VOLUNTEER TO SEPARATE FROM MY CURRENT EMPLOYMENT AND RECEIVE A VOLUNTARY SEPARATION INCENTIVE PAYMENT, I WILL BE RESPONSIBLE FOR REPAYING THE ENTIRE INCENTIVE PAYMENT (INCLUDING ANY TAXES OR OTHER WITHHOLDINGS) IN FULL TO THE AGENCY AWARDING IT IF I AM EMPLOYED BY THE FEDERAL GOVERNMENT OR IF I ENTER INTO A PERSONAL SERVICES CONTRACT WITH THE GOVERNMENT IN THE NEXT FIVE YEARS. THIS REPAYMENT IS DUE IN FULL PRIOR TO MY FIRST DAY OF WORK. I FURTHER UNDERSTAND THAT, IF I AM SELECTED TO RECEIVE A SEPARATION INCENTIVE, THIS STATEMENT SERVES AS MY AGREEMENT TO RESIGN. IF NOT SELECTED TO RECEIVE THE SEPARATION INCENTIVE, I UNDERSTAND THAT I WILL BE NOTIFIED AND THAT I WILL NOT BE BOUND BY MY ELECTION TO RESIGN.

______________________________ Date ______________
Signature

SAMPLE 2B

APPLICATION TO RETIRE WITH VSIP

The application to participate in the voluntary separation incentive program will be available from your personnel office, or you may submit the following typewritten statement if you are **retiring** (under either regular or early retirement).

I HAVE MET THE AGE AND SERVICE REQUIREMENT FOR EARLY OR REGULAR RETIREMENT. I HEREBY REQUEST TO RETIRE WITH A VOLUNTARY SEPARATION INCENTIVE PAYMENT EFFECTIVE (DATE). MY DECISION TO RETIRE IS ENTIRELY VOLUNTARY AND HAS NOT BEEN COERCED.

I UNDERSTAND THAT IF I VOLUNTEER TO SEPARATE FROM MY CURRENT EMPLOYMENT AND RECEIVE A VOLUNTARY SEPARATION INCENTIVE PAYMENT, I WILL BE RESPONSIBLE FOR REPAYING THE ENTIRE INCENTIVE PAYMENT (INCLUDING ANY TAXES OR OTHER WITHHOLDINGS) IN FULL TO THE AGENCY AWARDING IT IF I AM EMPLOYED BY THE FEDERAL GOVERNMENT OR IF I ENTER INTO A PERSONAL SERVICES CONTRACT WITH THE GOVERNMENT IN THE NEXT FIVE YEARS. THIS REPAYMENT IS DUE IN FULL PRIOR TO MY FIRST DAY OF WORK. I FURTHER UNDERSTAND THAT, IF I AM SELECTED TO RECEIVE A SEPARATION INCENTIVE, THIS STATEMENT SERVES AS MY AGREEMENT TO RETIRE. IF NOT SELECTED TO RECEIVE THE SEPARATION INCENTIVE, I UNDERSTAND THAT I WILL BE NOTIFIED AND THAT I WILL NOT BE BOUND BY MY ELECTION TO RETIRE.

____ Date _______________
Signature

SAMPLE 3

VOLUNTARY SEPARATION INCENTIVE PAYMENT *RESIGNATION* SURVEY

John J. Employee, Personnel Staffing Specialist, GS-212/12, U.S. OPM
Potential Separation Incentive Pay Estimate: $25,000**
Service Computation Date: 08/15/1974

Completing this form is purely optional and in no way obligates you to elect resignation. Please check the following as applicable:

_____ If offered, I am interested in applying for resignation with separation incentive pay

_____ I am not interested in applying for resignation at this time

---

Note: A resignation Separation Benefits Briefing is scheduled to be held on (enter date). The following topics will be discussed:

- o Federal Employee's Group Life Insurance
- o Annual and Sick Leave
- o Federal Employee's Health Benefits
- o Thrift Saving Plan
- o Civil Service Retirement System (CSRS)
- o Federal Employee's Retirement System (FERS)

** If you had active military duty preceding your civil service appointment, your actual separation incentive amount may be lower than the estimate provided above.

SAMPLE 4

VOLUNTARY SEPARATION INCENTIVE PAYMENT *RETIREMENT* SURVEY

Jane Employee, Personnel Staffing Specialist, GS-212/12, U.S. OPM

Potential Separation Incentive Pay Estimate:	($25,000)
Early Retirement Eligibility:	03/06/90
Voluntary Retirement Eligibility:	08/06/98
Service Computation Date:	03/06/65

> Note: The above information is provided to assist you in responding to this survey. It contains estimates based on information currently available. Specific review of your personnel history will be necessary to determine exact entitlement and dates. See your retirement counselor or call xxx-xxxxx for details.

Completing this form is purely optional and in no way obligates you to elect retirement. Please check the following as applicable:

_____ If offered, I am interested in applying for retirement with a separation incentive payment.

_____ I am not interested in retirement at this time.

_____ I have questions regarding the following:

THE EMPLOYEE'S GUIDE TO BUYOUTS

Under Public Law 104-208

U.S. OFFICE OF PERSONNEL MANAGEMENT
WORKFORCE RESTRUCTURING OFFICE

December 2, 1996

VOLUNTARY SEPARATION
INCENTIVE PAYMENTS UNDER
FISCAL YEAR 1997 OMNIBUS SPENDING LAW

PUBLIC LAW 104-208
September 30, 1996

KEY FEATURES OF THIS INCENTIVE LAW

Buyouts are available under this law between October 1, 1996, and December 30, 1997. All separations for buyouts under this law must occur on or before December 30, 1997. The law covers all Executive branch agencies except:

> those with buyout authority (under any other legislation) covering any part of FY 1997. However, the Department of Transportation is covered under this buyout law.

These agencies have or had specific authority to offer buyouts during a portion of FY 1997 and therefore, are not authorized to pay incentives under Public Law 104-208:

- Department of Agriculture
- Department of Defense
- Agency for International Development
- Central Intelligence Agency
- National Aeronautics and Space Administration
- Railroad Retirement Board and RRB Office of Inspector General
- Smithsonian Institution

In addition, agencies with standing authority to offer incentives as part of pay and benefits provisions of their standing legislation are also excluded and may not use this law to offer incentives.

Before using this authority, any agency wishing to use buyouts must submit an Agency Strategic Plan outlining its planned use of buyouts to the House and Senate appropriations and government affairs committees. The plan must detail positions and functions to be eliminated, the number of buyouts to be paid, how the agency will operate without the eliminated positions, etc. The plan must be approved by the Office of Management and Budget before the agency forwards the plan to the Congress.

Under this law, the amount of the buyout is equal to the lesser of:

- severance pay calculation;
- $25,000; or
- an amount determined by the agency head.

An employee **is eligible** to receive a buyout if the employee:

- receives a buyout offer on or after October 1, 1996, and before December 31, 1997;
- accepts the buyout offer;
- voluntarily retires, retires under early retirement, or voluntarily resigns during the approved buyout window; or
- is not subject to any of the exclusions below.

An employees **is not eligible** to receive a buyout if the employee:

- is a reemployed annuitant;
- has a disability on the basis of which the employee is or would be eligible for a disability retirement;
- is serving under an appointment with a time limitation;
- has not been on-board with the agency without a break in service for 3 continuous years;
- is in receipt of a specific notice of involuntary separation for misconduct or unacceptable performance;
- is completing service in order to receive an approved "delayed buyout" under the Federal Workforce Restructuring Act of 1994;
- has received a buyout before but has not repaid it;
- is covered by statutory reemployment rights from another organization;
- has received a recruitment or relocation bonus within 24 months of separating to receive a buyout ;
- has received a retention bonus within 12 months of separating to receive a buyout.

The agency paying buyouts must reduce its staff by one full-time equivalent for each incentive it pays. That means that agencies which are growing in size may not be able to pay buyouts under this law

A buyout taker must repay the entire amount of the incentive to the agency which paid the buyout if the employee accepts employment with the Government of the United States or under a personal services contract within 5 years of separating with the incentive.

> **NOTE: THERE IS NO AUTHORITY TO WAIVE THE REPAYMENT REQUIREMENT IN THIS LAW AND REPAYMENT MUST BE MADE *IN FULL* PRIOR TO THE EMPLOYEE'S FIRST DAY OF WORK**

1. "WHAT ARE VOLUNTARY SEPARATION INCENTIVE PAYMENTS? WHY ARE FEDERAL AGENCIES OFFERING THEM?"

The Administration is committed to reducing the size of the Federal workforce. On September 30, 1996, the President signed and enacted the Omnibus Spending Law, Public Law 104-208. Section 663 of this law allows agencies to offer buyouts of up to $25,000 to eligible employees who voluntarily retire, retire under early retirement, or voluntarily resign during the approved buyout window which runs from October 1, 1996, through December 30, 1997. Buyouts under this law expire December 30, 1997.

By allowing employees to volunteer to leave the Government, agencies can minimize or avoid involuntary separations through the use of costly and disruptive reductions in force (RIFs). The cost of separating an employee by RIF is far greater than the cost to pay employees buyouts to voluntarily quit.

2. "WHEN WILL MY AGENCY OFFER BUYOUTS?"

The Omnibus Spending Law (Public Law 104-208) authorizes the heads of Executive Branch agencies to pay voluntary separation incentives (buyouts) to eligible employees who resign or retire before December 31, 1997 (on or before December 30, 1997). Under this current law, buyouts are not available to those Executive branch agencies who have existing buyout authority (under any other legislation) covering any part of FY 1997 (agencies with authority under the Department of Transportation Appropriations Act of 1997 may use P.L. 104-208 to pay buyouts). Since the agency is required to submit an Agency Strategic Plan outlining its planned use of buyouts to Congress, YOUR agency can tell you if, where, and when buyouts will be offered. You are encouraged to contact YOUR agency and inquire when buyouts will be offered. OPM will not always be able to answer this question for you.

3. "DO I MEET THE AGE AND SERVICE REQUIREMENTS TO BE ELIGIBLE FOR A BUYOUT?"

The law does not set any age requirements. At minimum, the employee must have worked for 3 continuous years in the agency offering incentives before taking a buyout. In addition, the law allows agencies to limit where they use incentives. Incentives can be targeted at positions according to locations, organizations, and/or occupations (including grade levels), but may not be targeted at individuals.

Many people believe that the "buyout" program is a RETIREMENT program. It is not. It is a program that allows Federal agencies to pay separation incentives (buyouts) to ANY employee who quits or takes regular or early retirement. If your agency elects to offer a buyout to you, you will be eligible provided you meet the minimum eligibility criteria explained in question 6 of this Guide. If you wish to retire with a buyout, you must meet the age and service requirements for optional retirement (see question 10) or voluntary early retirement (see question 30).

4. "MY AGENCY IS NOT PLANNING TO USE BUYOUTS. IS THIS FAIR? DON'T I HAVE A RIGHT TO A BUYOUT?"

Agencies ARE NOT REQUIRED to use or pay incentives. Incentives ARE NOT an employee right. The incentives are a management tool to help the agency reduce the workforce without having to run costly and disruptive RIFs.

5. "HOW MUCH WILL MY INCENTIVE BE? DOES EVERYONE GET $25,000?"

The amount of each employee's incentive will vary. The basic formula for calculating your incentive is the same formula used for calculating severance pay. Remember, the MAXIMUM amount that any agency may pay for each buyout is $25,000, (the amount you receive will be EVEN LOWER after the appropriate taxes, social security, medicare, etc. are deducted by your payroll office). This law allows the agency head to set a maximum amount LOWER than $25,000 (for example, an agency could determine that its buyouts will be based on the lesser of the amount you would receive under severance pay or $20,000). You will need to contact your servicing personnel office for an exact calculation of your incentive amount. We have included a worksheet in this packet to help you ESTIMATE your buyout. (OPM is not responsible for the accuracy of buyout calculations performed using the attached buyout Calculation Worksheet. The worksheet is for estimation only).

An incentive payment is the amount of severance pay you would get, $25,000, or an amount determined by the agency head -- **whichever is less.** Severance pay is figured as if you would get it; you don't have to be eligible for severance pay. (Severance pay is normally only for people who separate involuntarily. Leaving Federal service with an incentive payment is a voluntary action.)

The amount of severance pay would be 1 week's basic pay for each of the first 10 years of your civilian service, plus 2 weeks' basic pay for each year over 10 years. An age adjustment allowance of 10% is added for each year you are over 40. (No credit is given for military service unless the service interrupted otherwise creditable civilian service and the employee returned to civilian service through the exercise of a legal restoration right.) Total severance pay may not exceed one year's pay at the rate the employee is receiving immediately before separation.

6. "WHAT MAKES AN EMPLOYEE ELIGIBLE FOR A BUYOUT?"

Your agency must offer buyouts before you have any entitlement to them. Additionally, you must work in a position covered under your agency's buyout offer. Each employee must satisfy the following criteria:

An employee **is eligible** to receive a buyout if the employee:

- receives a buyout offer on or after October 1, 1996, and before December 31, 1997;
- accepts the buyout offer;
- voluntarily retires, retires under early retirement, or voluntarily resigns during the approved buyout window; and
- is not subject to any of the exclusions listed below.

An employee **is not eligible** to receive a buyout if the employee:

- is a reemployed annuitant;
- has a disability on the basis of which the employee is or would be eligible for a disability retirement;
- is serving under an appointment with a time limitation;
- has not been on-board with the agency without a break in service for 3 continuous years;
- is in receipt of a specific notice of involuntary separation for misconduct or unacceptable performance;
- is completing service in order to receive an approved "delayed buyout" under the Federal Workforce Restructuring Act of 1994;
- has received a buyout before but has not repaid it;
- is covered by statutory reemployment rights from another organization;
- has received a recruitment or relocation bonus within 24 months of separating to receive a buyout ;
- has received a retention bonus within 12 months of separating to receive a buyout.

7. "ARE POSTAL SERVICE EMPLOYEES COVERED BY THIS LAW?"

No. This law excludes U.S. Postal Service and Postal Rate Commission employees. However, individuals who receive buyouts under this program and who take employment with the Postal Service and Postal Rate Commission for five years after the incentive is paid, must repay the entire amount of the buyout to the agency which paid the buyout.

8. "ARE D.C. GOVERNMENT WORKERS WHO WERE FEDERAL EMPLOYEES COVERED BY THIS LAW?"

No. This law authorizes certain Executive branch agencies to pay incentives to their employees. The DC Government is not a Federal Executive branch agency.

9. "ARE EMPLOYEES IN THE EXCEPTED SERVICE INCLUDED? FOREIGN SERVICE?"

Employees in both the Excepted Service and the Foreign Service can be eligible for buyouts under this law.

10. "DOES THE NEW LAW CHANGE ELIGIBILITY FOR RETIREMENT?"

No. If you are under FERS or CSRS, you can take regular optional retirement if you are 55 with at least 30 years of service; age 60 with 20 years of service; or age 62 with 5 years. If your agency offers early retirement, you must be at least 50 with 20 years of service or have 25 years of service at any age. An employee under FERS also is eligible for an immediate annuity if he/she has 10 years of service and has reached the minimum retirement age (55 if born before 1948, and gradually increasing to 57). An employee under CSRS must meet the 1-out-of-last-2 years coverage requirement and all employees must have at least 5 years of civilian service.

11. "WHAT DOES AN "APPOINTMENT WITHOUT TIME LIMITATION" MEAN?"

An employee on an appointment with a time limit works only until a specified date and then goes off the rolls. The employing agency sets the ending date when it hires the individual and/or when it extends the appointment. For example, temporary and term employees serve with a time limit, so they are not eligible for an incentive payment. Career and career-conditional employees and permanent employees in the excepted service have no limit so they are eligible.

12. "I RETIRED FROM THE MILITARY BUT AM NOW A CIVILIAN EMPLOYEE. CAN I APPLY FOR A SEPARATION INCENTIVE?"

Yes, if you are otherwise eligible (see question 6). The agency will figure the incentive payment only on the basis of your civilian service and any creditable military service which interrupted civilian service and which conveyed restoration rights.

13. "WHEN IS THE EARLIEST I CAN LEAVE WITH AN INCENTIVE PAYMENT? WHEN IS THE LATEST?"

Your agency can set windows for buyouts at any time through December 30, 1997. The agency may not delay your separation with an incentive payment past December 30, 1997. See your personnel office for details on when windows will be available for you to apply.

14. "IF I MEET ALL THE REQUIREMENTS, DO I AUTOMATICALLY GET AN INCENTIVE PAYMENT IF I LEAVE? WHAT IF MY AGENCY GETS MORE REQUESTS FOR INCENTIVE PAYMENTS THAN ARE NECESSARY TO MEET ITS REDUCED STAFFING TARGETS. HOW WILL IT DECIDE WHICH REQUESTS TO APPROVE?"

You are eligible to apply for an incentive payment if you meet all the requirements set by the law and your agency. Agencies may exclude certain jobs or units from the incentive payment offer. (See your agency for a list.) In handling applications, the agency must use a fair and objective method to determine the order in which applications will be approved (for example, order of separation date, order of receipt of completed applications, seniority, etc.).

15. "WHEN WILL I RECEIVE MY INCENTIVE PAYMENT? WILL IT BE ALL AT ONCE (LUMP SUM) OR MONTHLY? IS IT TAXABLE?"

The agency will send you the incentive payment as soon as possible after the date of your separation but cannot guarantee a specific date. First, the agency must resolve any leave errors, salary offsets, and employee debts to the Government. It is also subject to garnishment for alimony and child support. The incentive payment is taxable. You will receive it as a lump sum (less Federal income tax withholding, applicable State and local taxes, and FICA/Medicare taxes).

16. "DO I HAVE TO MAKE A COMMITMENT TO LEAVE IF I ACCEPT AN INCENTIVE PAYMENT?"

Your agency will ask you to sign an agreement saying that in exchange for an incentive payment you agree to resign or retire on a specific date. If employees change their minds, the agency might not be able to meet its downsizing goal. DO NOT SIGN AN AGREEMENT TO SEPARATE FROM YOUR AGENCY UNLESS YOU ARE FULLY PREPARED TO LEAVE THAT AGENCY AND NOT RETURN TO THE GOVERNMENT FOR 5 YEARS. In some cases, the agency can require an employee to follow through on his or her commitment to separate with a voluntary separation incentive payment.

In a 1994 Merit Systems Protection Board decision (Cook v. Department of Defense, SL-0752-93-0406-I-1, June 22, 1994), MSPB found that employees who offer to resign in return for a buyout must be allowed to withdraw their buyout agreement prior to separation unless the agency can demonstrate a valid reason for denying the request. The Board cited situations in which an agency had already made commitments to place another employee in the position, or had abolished the position, or would be forced to use RIF procedures if the employee changed his or her mind as examples of valid reasons for denying the request to withdraw the buyout agreement.

17. "WHAT DOES THE INCENTIVE PAYMENT AGREEMENT SAY?"

The agreement says that you agree to leave by a certain date in return for the incentive payment. It also says that if you accept an incentive payment and become reemployed with the Federal government, under any appointment authority for any duration, in either a temporary or permanent status or under a personal services contract, for 5 years following the effective date of your separation, you will be required to repay the full amount of the incentive payment prior to your first day of employment. Waivers are not allowed in any cases under this law.

18. "WHAT RIGHTS AND BENEFITS WOULD I BE GIVING UP TO TAKE AN INCENTIVE PAYMENT TO RETIRE OR RESIGN RATHER THAN WAITING TO BE SEPARATED IN A RIF?"

- Placement assistance;
- Selection priority under the Career Transition and Interagency Career Transition Assistance Programs (CTAP and ICTAP);
- Taking a job in Government within next 5 years without paying back the incentive payment;
- Full amount of severance pay (if eligible);
- Discontinued Service Retirement (if eligible).

19. "MAY I TAKE A DISCONTINUED SERVICE RETIREMENT, THE LUMP-SUM REFUND OF RETIREMENT CONTRIBUTIONS, AND AN INCENTIVE PAYMENT?"

No. Incentives are paid to employees who leave voluntarily. The lump-sum refund is available only to employees who were separated involuntarily no later than September 29, 1994, or who have a critical medical condition. Discontinued Service Retirement is based on an involuntary separation. Employees with a non-disability terminal illness cannot separate to receive a buyout.

20. "IF I LEAVE WITH AN INCENTIVE PAYMENT, CAN I TAKE A JOB IN ANOTHER FEDERAL AGENCY? AM I ELIGIBLE FOR PLACEMENT ASSISTANCE?"

If you have retired or resigned with an incentive payment under this law, you must repay the entire amount of the incentive if you take a job with the Federal Government within 5 years of your separation date with the incentive payment. This repayment requirement covers any kind of employment (for example, permanent, temporary, expert, consultant, reemployed annuitant) as well as personal services contracts. Repayment may not be waived.

You are not entitled to any placement assistance or selection priority because employees <u>volunteer</u> to leave Federal service with an incentive payment. Placement assistance is for employees who are involuntarily separated.

21. "I TOOK A BUYOUT AND NOW WANT TO WORK FOR THE POSTAL SERVICE. CAN OPM APPROVE A WAIVER TO THE 5 YEAR REEMPLOYMENT PENALTY?"

No. OPM has no authority to approve waivers of the 5 year reemployment penalty under this law. Any reemployment or personal service contract with the Postal Service is subject to the 5-year reemployment penalty for employees who take a buyout, and there is no authority under current law for any waiver of the penalty.

22. "CAN THE AGENCY DELAY MY SEPARATION UNTIL AFTER THE "WINDOW" AND STILL GIVE ME AN INCENTIVE PAYMENT WHEN I LEAVE? CAN MY BUYOUT SEPARATION BE DELAYED LIKE AGENCIES WERE ABLE TO DO UNDER THE WORKFORCE RESTRUCTURING ACT?"

No. Under this law, buyouts must be paid under the general authority window which extends until December 30, 1997. All buyouts must be offered, accepted, approved, and the employee must separate on or before December 30, 1997. There is no provision to extend buyout separation dates past the December 30, 1997, closing date for this law.

23. "LEAVING FEDERAL SERVICE WITH THE INCENTIVE PAYMENT IS SUPPOSED TO BE VOLUNTARY. IF I'M ELIGIBLE BUT DON'T CHOOSE TO LEAVE, CAN MY AGENCY RETALIATE BY MOVING ME TO ANOTHER POSITION?"

Incentives are for voluntary separations. Coercion is prohibited. However, after the window closes, an agency may find it necessary to move some remaining employees to other positions. Also, later restructuring could mean the agency would have to reassign or even separate employees. To take these actions agencies would have to follow requirements of law, regulation, and applicable negotiated procedures.

24. "IF I DECLINE AN OFFER OF AN INCENTIVE, CAN I BE RIFed?"

Coercing an employee to take a buyout is prohibited. However, even if an agency uses buyouts, it is possible that buyouts will not result in a sufficient number of voluntary separations and the agency may need to carry out a RIF. A buyout offer does not protect the employee from RIF.

25. "CAN I ROLL MY BUYOUT OVER INTO AN INDIVIDUAL RETIREMENT ACCOUNT OR ANOTHER FORM OF TAX SHELTER?"

No. The buyout is considered fully taxable income (see question 14) and cannot be rolled over into retirement accounts.

26. "I HAVEN'T BEEN ENROLLED IN THE FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM FOR A FULL 5-YEAR PERIOD. IF I TAKE A BUYOUT, DO I LOSE MY HEALTH INSURANCE?"

Employees who retire with buyouts may be able to continue their health insurance into retirement even if they have not been enrolled for a full 5-year period prior to retirement. OPM has authority under the law to waive this requirement, if it determines that, due to exceptional circumstances, it would be against equity and good conscience not to allow an employee to continue their health insurance coverage.

In April 1994, OPM created a new automatic procedure which enables employees retiring with buyouts under the Federal Workforce Restructuring Act of 1994, and other similar legislation, to obtain waivers of the 5-year participation requirement for continuing their coverage under the Federal Employees Health Benefits Program as retirees.

WHO IS COVERED BY THE AUTOMATIC WAIVER:

- Employees who accept a buyout offer and retire with the incentive on or before December 30, 1997, or the expiration date of statutory buyout authority other than P.L. 104-208.
- Employees who accept a buyout offer on or before the expiration date of the statutory buyout authority but (if provided for in the buyout law) separate after completing additional service required by the agency to insure continued performance of agency mission ("delayed buyouts").
- Employees who accept an early retirement offer *without* a buyout and separate on or before December 30, 1997 (or the expiration date of statutory buyout authority other than P.L. 104-208).
- Employees in other agencies covered by other statutory buyout authority.

WHO IS NOT COVERED BY THE AUTOMATIC WAIVER:

- Employees who are not covered by FEHB on October 1, 1996, and continuously thereafter.

There is no waiver authority for life insurance coverage.

27. "IF I RESIGN, WHAT HAPPENS TO MY HEALTH INSURANCE?"

Temporary coverage continues for up to 31 days after the enrollment terminates, with conversion privileges. You would also be eligible for temporary continuation of coverage, which allows you to continue your coverage for up to 18 months. You must pay 102 percent of the premiums (the employee's share, plus the Government's share, plus 2 percent of the total).

28. "HOW LONG UNTIL I GET MY BUYOUT CHECK?"

Generally, you should receive your buyout check within a couple of weeks of your final separation.

29. "CAN I TAKE A BUYOUT AND APPLY FOR DISABILITY RETIREMENT LATER?"

Employees may file for disability up to one year after separation. However, if you have received a buyout and are found to be eligible for disability retirement later, you are then responsible for repaying the entire amount of the buyout to the agency which paid the buyout to you. This is because the disability retirement is retroactive to the date of separation and the buyout law excludes employees having a disability on the basis of which such employee is or would be eligible for disability retirement.

VOLUNTARY EARLY RETIREMENT RELATED QUESTIONS

30. "WHO IS ELIGIBLE FOR EARLY RETIREMENT?"

OPM can authorize an agency to offer early retirement to eligible employees. The agency can exclude employees in certain jobs that are critical to the agency's operation. (See your agency for a list.) The agency may change this list before the early retirement window closes. Unless you are excluded because your job is on the above list, you are eligible for early retirement as follows:

> If you are under the Civil Service Retirement System (CSRS), you must have served in a position covered by the CSRS for at least I year out of the 2 years immediately before retirement. If you are under FERS, this rule does not apply.
>
> You must be at least 50 with 20 years of service or have 25 years of service at any age. At least 5 years must be civilian service, whether you are retiring under CSRS or FERS.
>
> You must be serving under other than a temporary appointment;
>
> You must have been on the agency's rolls at least 30 days before the agency requested authority from OPM and you served continuously since that date without a break in service.

31. "WHAT DOES THE EARLY RETIREMENT "WINDOW" MEAN?"

Each agency sets a window, or period of time, during which eligible employees can take early retirement. Normally, this coincides with the window during which buyouts will be offered. If you want to retire early, you would separate during this time period. You must turn in your application as soon as possible to make sure you can retire during the window.

32. "CAN ANYONE WHO IS ELIGIBLE AND WHO APPLIES FOR EARLY RETIREMENT BE ASSURED OF RETIRING EARLY?"

Just as it does with buyouts, the agency may set a limit on the number of early retirements it offers. This number should take care of all the employees who want to retire early and whose jobs are not essential to the agency's continued operations. If the agency receives more applications than it needs, the agency must use a fair objective method to make decisions (for example, order of separation date, order of receipt of completed applications, seniority, etc.).

33. "IF I TAKE EARLY RETIREMENT, IS MY ANNUITY REDUCED?"

CSRS employees who retire under the voluntary early retirement authority will have a reduction in their annuity of 2 percent per year for each year they are under age 55. (The reduction is 1/6 of 1 percent for each full month.) This is a permanent reduction in annuity.

Employees with only FERS service will not have their annuities reduced under voluntary early retirement. Employees with both CSRS and FERS service will have a reduction only for the CSRS portion of their service if under age 55.

Employees retiring under the MRA+10 provision before age 62 are subject to the age reduction on the entire annuity.

Special rules apply to the calculation of annuities of employees who have part-time service after 1986. The personnel office can give you more details.

34. "IF I TAKE EARLY RETIREMENT, WHAT HAPPENS TO MY UNUSED SICK LEAVE?"

CSRS employees will receive service credit for any unused sick leave in determining their annuity (but they must meet eligibility requirements for retirement before the sick leave is added).

FERS employees do not receive credit. Employees who were previously under CSRS but who transferred to FERS will receive credit for either the amount of sick leave at the time of the transfer to FERS, or at the time of retirement--whichever is less.

35. "WHERE CAN I GO TO GET AN ESTIMATE OF MY ANNUITY?"

Your agency retirement benefits counselor in your personnel office will be able to provide this estimate to you.

36. "WHAT FORMS DO I NEED TO APPLY FOR EARLY RETIREMENT WITH AN INCENTIVE PAYMENT AND WHERE DO I GET THEM?

Your personnel office will provide these forms to you. You will sign: (1) an application for retirement (2) an incentive payment agreement.

BUYOUT COMPUTATION WORKSHEETS

The following are samples for use in ESTIMATING the amount of your buyout. The actual calculation formula is somewhat more complicated and technical. The samples are intended to allow an employee to figure the APPROXIMATE amount of the buyout they may receive. The Office of Personnel Management (OPM) is not responsible for the accuracy of the results that this worksheet may give you.

NOTE: The head of each agency can set a maximum buyout amount which is lower than $25,000. In cases where the agency's buyouts will be capped at less than $25,000, employees should adjust their buyout calculation accordingly to reflect the lower possible maximum amount set by the agency.

IF YOU WANT AN ACCURATE CALCULATION, YOU WILL HAVE TO CONTACT YOUR PERSONNEL OFFICE.

EXAMPLE OF BUYOUT ESTIMATION WORKSHEET

line 1. **Salary at time of separation** (GS-14/10) = $81,217

line 2. **Weekly Rate** (line 1 divided by 52) =$1,561.87

line 3. **Years of Service** (see A and B below) 18

A. If your length of service is LESS THAN 10 years, enter your length of service on line 3a.

B. If your length of service is MORE THAN 10 years:

1) enter your length of service: 18
2) subtract 10 from your length of service: -10
8
3) multiply the result, in this case, 8, by 2: 16
+10
4) add 10 to the amount listed in 3). 26
5) enter this total on line 3a. This is the factor for your adjusted years of service and tells you APPROXIMATELY the number of weeks of severance pay you would be entitled to.

line 3a. **Adjusted Years of Service** 26

line 4. **Basic Severance Pay** (multiply amount on line 2 by number on line 3a--Adjusted Years of Service) = $40,608.50

line 5. **Age Adjustment Factor** (if your age is above 40, look your age up on the "AGE TABLE AND FACTORS" chart attached. Enter the "factor" number shown.)

Age = 52 years. Factor = 2.20.

Line 6. **Estimated Severance Pay Amount**

Multiply line 4 by line 5 factor (40,608.50 X 2.20) $89,338.70

6a. If line 6 exceeds line 1, enter amount on line 1.
The estimated amount of severance pay will be $81,217

Line 7. **Estimated Buyout Amount**

If line 6a exceeds $25,000 (or a lower maximum amount set by the agency head), enter $25,000 (or the lower maximum amount)

OR

If line 6a does not exceed $25,000 (or a lower maximum amount), but is more than line 1, enter amount on line 1.

YOUR BUYOUT AMOUNT: $25,000

EXAMPLE OF BUYOUT ESTIMATION WORKSHEET

line 1. **Salary at time of separation** (GS- _____) = $________________

line 2. **Weekly Rate** (line 1 divided by 52) = $________________

line 3. **Years of Service** (see A and B below) _____________

A. If your length of service is LESS THAN 10 years, enter your length of service on line 3a.

B. If your length of service is MORE THAN 10 years:
1) enter your length of service: __________
2) subtract 10 from your length of service: ______-10
____
3) multiply the result by 2: __________
______+10
4) add 10 to the amount listed in 3). __________
5) enter this total on line 3a. This is the factor for your adjusted years of service and tells you APPROXIMATELY the number of weeks of severance pay you would be entitled to.

line 3a. **Adjusted Years of Service** __________

line 4. **Basic Severance Pay** (multiply amount on line 2 by number on line 3a--Adjusted Years of Service) =_________

line 5. **Age Adjustment Factor** (if your age is above 40, look your age up on the "AGE TABLE AND FACTORS" chart attached. Enter the "factor" number shown.)

Age = _______ years. Factor = ___________.

Line 6. **Estimated Severance Pay Amount**

Multiply line 4 by line 5 factor $_________

6a. If line 6 exceeds line 1, enter amount on line 1.
The estimated amount of severance pay will be $_________

Line 7. **Estimated Buyout Amount**

If line 6a exceeds $25,000 (or a lower maximum amount set by the agency head), enter $25,000 (or the lower maximum amount)

OR

If line 6a does not exceed $25,000 (or a lower maximum amount), but is more than line 1, enter amount on line 1.

YOUR ESTIMATED BUYOUT AMOUNT: $ -------------------

AGE TABLE AND FACTORS

Yrs.	Mos.	Factor	Yrs.	Mos.	Factor	Yrs.	Mos.	Factor
40	3-5	1.025	48	4-8	1.850	56	9-11	2.675
40	6-8	1.050	48	9-11	1.875	57	0-2	2.700
40	9-11	1.075	49	0-2	1.900	57	3-5	2.725
41	0-2	1.100	49	3-5	1.925	57	6-8	2.750
41	3-5	1.125	49	6-8	1.950	57	9-11	2.775
41	6-8	1.150	49	9-11	1.975	58	0-2	2.800
41	9-11	1.175	50	0-2	2.000	58	3-5	2.825
42	0-2	1.200	50	3-5	2.025	58	6-8	2.850
42	3-5	1.225	50	6-8	2.050	58	9-11	2.875
42	6-8	1.250	50	9-11	2.075	59	0-2	2.900
42	9-11	1.275	51	0-2	2.100	59	3-5	2.925
43	0-2	1.300	51	3-5	2.125	59	6-8	2.950
43	3-5	1.325	51	6-8	2.150	59	9-11	2.975
43	6-8	1.350	51	9-11	2.175	60	0-2	3.000
43	9-11	1.375	52	0-2	2.200	60	3-5	3.025
44	0-2	1.400	52	3-5	2.225	60	6-8	3.050
44	3-5	1.425	52	6-8	2.250	60	9-11	3.075
44	6-8	1.450	52	9-11	2.275	61	0-2	3.100
44	9-11	1.475	53	0-2	2.300	61	3-5	3.125
45	0-2	1.500	53	3-5	2.325	61	6-8	3.150
45	3-5	1.525	53	6-8	2.350	61	9-11	3.175
45	6-8	1.550	53	9-11	2.375	62	0-2	3.200
45	9-11	1.575	54	0-2	2.400	62	3-5	3.225
46	0-2	1.600	54	3-5	2.425	62	6-8	3.250
46	3-5	1.625	54	6-8	2.450	62	9-11	3.275
46	6-8	1.650	54	9-11	2.475	63	0-2	3.300
46	9-11	1.675	55	0-2	2.500	63	3-5	3.325
47	0-2	1.700	55	3-5	2.525	63	6-8	3.350
47	3-5	1.725	55	6-8	2.550	63	9-11	3.375
47	6-8	1.750	55	9-11	2.575	64	0-2	3.400
47	9-11	1.775	56	0-2	2.600	64	3-5	3.425
48	0-2	1.800	56	3-5	2.625	64	6-8	3.450
48	3-5	1.825	56	6-8	2.650	64	9-11	3.475

SPECIAL TAX SECTION

Many, if not most employees have questions regarding the impact a buyout has on their taxes. OPM has worked in cooperation with the Internal Revenue Service to provide the following general information on taxes.

It is critical to note that information provided here is general in nature and in no way is intended to apply to every employee's situation. Employees are urged to seek the assistance of a trained and experienced tax advisor or personal financial counselor on any matters related to the employee's income, finances, taxes, or retirement.

IS THE BUYOUT TAXABLE INCOME OR A SPECIAL ONE-TIME PAYMENT WITH DIFFERENT TAX CONSEQUENCES?

Buyouts are included as an item of "gross income" and are considered as fully taxable income under IRS tax laws. Section 451(a) of the Internal Revenue Code (the "Code") provides that the amount of any item of gross income must be included in the gross income for the taxable year in which it is received by the taxpayer. Thus, a buyout is taxable in the year of payment, regardless of the year in which the buyout is authorized, unless the employee is required to repay the buyout in the same tax year. The buyout is not a special one-time payment with different tax consequences.

WHAT HAPPENS TO THE TAXES I PAID IF I HAVE TO REPAY THE ENTIRE AMOUNT OF THE BUYOUT?

The employee is entitled to recover taxes withheld or paid based on the receipt of a buyout.

HOW DO I GET MY TAXES BACK IF I AM ENTITLED TO THEM AFTER REPAYING THE BUYOUT? DO I FILE AN AMENDED TAX RETURN?

Recovering taxes paid on a "repaid buyout" depends on when repayment occurs. Below are two examples. In either case, the employee is not entitled to file an amended return for that tax year because of the concept of "annual accounting"

"I got a buyout in February 1997 and returned to work in June 1997."

If an employee receives a buyout and is required to repay the buyout in the SAME tax year, the buyout is not included in the employee's wages for federal income tax withholding purposes. It is not reflected on Form W-2 as "wages, tips, other compensation," as "social security wages," or as "Medicare wages." Any income tax and FICA employee tax withheld on the buyout should be repaid or credited to the employee by the agency paying the buyout.

"I got a buyout in February 1997 and was hired by another agency in April 1998."

In this case, the employee is required by law to repay the entire amount of the buyout to the agency that paid it and repayment must be made prior to beginning the second job. The employee may take a loss deduction (under section 165 of the Code) for the amount repaid in the 1998 tax year. The employee MAY NOT file an amended tax return for 1997 because the employee received the income in 1997 and was required to pay taxes on it then as earned wages.

"HOW MUCH WILL MY BUYOUT BE AFTER TAXES?"

TAX DEDUCTIONS FROM BUYOUT PAYMENTS

Voluntary separation incentive payments are considered supplemental wages and are treated similarly to cash awards, bonuses, and allowances for withholding purposes. Most agencies automatically withhold the following taxes from supplemental payments:

All Employees

Federal Income Tax	Most agencies withhold a flat 28% of the buyout payment for Federal income tax. In some cases, this may be higher than your normal withholding rate and you may want to reexamine your tax planning for withholding purposes.
State Income Tax (when applicable)	Agencies make deductions based on a specified rate for supplemental payments or the applicable standard rate.
Local Income Tax (when applicable)	Agencies make deductions based on a specified rate for supplemental payments or the applicable standard rate.

CSRS Employees

Medicare	1.45%

FERS & CSRS Offset Employees

OASDI	(Old Age Survivor Disability Insurance) 6.2% subject to annual tax limitations
Medicare	1.45%

OTHER DEDUCTIONS

Where applicable, agencies may also make deductions for certain types of indebtedness. Following are some circumstances in which deductions for debts may be made:

* The balance of any commercial garnishment plus supplemental fees or court-ordered interest related to the garnishment.

* The balance of any child support/alimony arrearage when included in the court order.

* The balance of any debt owed to the agency.

FOR FURTHER INFORMATION

Many of the deductions taken from buyout payments by servicing payroll offices vary depending on agency regulations. More detailed information on how your servicing payroll office processes incentive payments may be obtained from your servicing personnel office.

EXAMPLES

CSRS EMPLOYEE

Buyout Amount		**$25,000.00**
Payroll Deductions		
Federal Tax (28%)	$7,000.00	
State Tax (4%) (when applicable)	1,000.00	
Local Tax (1%) (when applicable)	250.00	
Medicare (1.45%)	362.50	
Total Deductions	8,612.50	
Payment After Deductions		**$16,387.50**

FERS AND CSRS OFFSET EMPLOYEES

Buyout Amount		**$25,000.00**
Payroll Deductions		
Federal Tax (28%)	$ 7,000.00	
State Tax (4%) (when applicable)	1,000.00	
Local Tax (1%) (when applicable)	250.00	
Medicare (1.45%)	362.50	
OASDI (6.2%)	1,550.00	
Total Deductions	$10,162.50	
Payment After Deductions		**$14,837.50**

PLANNING FOR BUYOUTS

PREPARE NOW!! Plan for a possible buyout offer and be prepared to act quickly if you get one. With the focus of the nation on downsizing, consolidating, and eliminating entire functions now performed by the Federal government, buyouts may be a major consideration for employees as new incentives are authorized. There is never a bad time to begin planning for the future and often employees do not have large amounts of time to consider an offer.

Because of proposed budget cuts and agency reductions, employees who have not yet received a buyout offer should begin careful planning in the event that a future buyout offer is made to them. Over 112,500 employees have already left Federal agencies since with buyouts since the Department of Defense began using incentives in 1993.

Because of the fundamental changes in an employee's life that voluntary separations present, and because employees may not have large amounts of time to make decisions when offers are made, EMPLOYEES SHOULD TAKE STEPS NOW TO BE PREPARED FOR ANY OFFERS THAT MAY BE MADE. OPM's Workforce Restructuring Office has available copies of "The Employee's Guide to Buyouts Under Public Law 104-208" which gives employees an overview of how buyouts work and answers many commonly asked questions on buyouts. Workforce Restructuring Office will mail you a FREE copy simple by dialing "The Restructuring Hotline" on (202) 606-2425. Callers should select option 4 to order "The Employee's Guide to Buyouts Under Public Law 104-208" or any of a variety of other "Employee's Guides" offered by OPM. Copies can be downloaded from OPM's electronic bulletin boards (OPM MAINSTREET (202) 606-4800 or the Federal Job Opportunities Board at (912) 757-3100).

Downsizing information is also available on the World Wide Web at a new site called "Planning Your Future -- A Federal Employee's Survival Guide." You can access this site on the Internet at *http://safetynet.doleta.gov.*

THE FOLLOWING STEPS ARE RECOMMENDED FOR ANYONE CONSIDERING A BUYOUT:

☞ **REVIEW YOUR PERSONNEL FILE TO ENSURE THAT ALL PERIODS OF FEDERAL SERVICE ARE DOCUMENTED.**

Having all of this documented is critical because your annuity and your buyout amount will be computed based on this information.

☞ **OBTAIN AN ESTIMATE OF YOUR ANNUITY FROM YOUR RETIREMENT COUNSELOR.**

Your servicing personnel office has retirement counselors available to assist you. They can give you an estimate of your annuity and explain your benefits to you. Be careful to determine what impact retirement or separation will have on your insurance coverage. Carefully consider whether you can live on a reduced income.

☞ **OBTAIN AN ESTIMATE OF YOUR BUYOUT AMOUNT.**

Calculation sheets are available in "The (revised) Employees Guide to Buyouts" (see above for information on how to obtain a copy). The calculation sheets are useful for getting an ESTIMATE of the buyout amount. Also, it is important to remember that buyouts are fully taxable and that the take-home (net) amount of the buyout will be significantly less than the gross amount of the buyout.

☞ **IF YOU SERVED IN THE MILITARY AFTER 1956, SEND FOR YOUR PAY RECORDS.**

It is probably in your best interest to pay a retirement contribution to cover any post-1956 military service. You must do this before you retire. Start the process by requesting your military pay records from the military finance center for your branch of service. Your personnel office can tell you where to apply. Begin the process immediately--it is not unusual for the processing of these changes to take as much as 8 weeks.

☞ **DISCUSS YOUR PLANS WITH YOUR SPOUSE AND FAMILY.**

A buyout represents a major change in your way of life. Your spouse and family should be involved in this life-changing decision. Retirement means more free time at home, and often, lower earnings. Discuss these issues with your family and allow them to take an active role in your planning. The choice to leave your job will affect them as much as it affects you.

☞ **CONSIDER MEETING WITH A PERSONAL FINANCIAL ADVISOR.**

Because retirement often means smaller paychecks, it may be useful to speak with a personal advisor or accountant. These individuals can help you figure out what tax advantages may be open to you, how much your income will be, what debts you can reduce, and what your standard of living would be like with your annuity.

☞ **LOOK TO THE FUTURE.**

Remember that the buyout law requires employees returning to work for the government of the United States within a period of 5 years to repay the entire amount of the buyout prior to the first day of work. The employee must repay the ENTIRE AMOUNT OF THE BUYOUT (not the amount you received (net), but the gross amount). Buyout takers are urged to not make plans that involve returning to work with the government either by appointment or a personal services contract unless you are prepared to repay the entire amount of the buyout prior to the first day of work. There are no waivers or exceptions to this repayment requirement.

Immediate and thorough preparation and planning NOW will make your decision much easier when a buyout offer is made.