UNITED STATES DEPARTMENT OF AGRICULTURE
Farm Service Agency
Washington, DC 20250

Notice PM-2967

For: FSA and RMA Offices

Reemploying Civilian Retirees With Dual Compensation Waivers (DCW)

Approved by: Deputy Administrator for Management

1 Overview

A Background

On December 19, 2015, the President signed the National Defense Authorization Act (NDAA) for FY 2015. The NDAA provides that a department may grant their own dual compensation, salary offset waiver on a temporary basis, under certain specified circumstances.

The NDAA for FY 2015, Section 1107 extends the authority that was given to USDA for FY 2010, Section 1122, that allows the head of an agency to grant DCW's on a temporary basis under certain specified circumstances for reemployed annuitants. This authority is effective October 28, 2014, through December 31, 2019. Under this authority, there is no provision for the time limitations to start over based on the extended authority; it allows that an annuitant can spend up to a total of 520 hours training/mentoring without it counting towards the time restrictions; includes the requirement to submit an annuitant's resume for initial and all subsequent requests; adds a departmental restrictions section; and removes the annual reporting requirement.

B Purpose

This notice only extends the previous authority that was given under the NDAA for FY 2010.

Notes: There is no provision for the time limitations to start over under the extended authority. Therefore, the maximum total of 3,120 hours of service performed by an annuitant must be calculated from the date of the initial DCW and includes any waivers approved under the previous authority.

Disposal Date	Distribution
August 1, 2017	All FSA and RMA Offices; State Offices relay to County Offices

1 Overview (Continued)

B Purpose (Continued)

Requests may be initiated and sent forward for approval using the procedures in this notice. USDA has **not** redelegated the approval authority to the agencies; therefore, USDA approval **must** be obtained **before** making final employment offers. Approvals will **not** be granted with retroactive dates; **all** effective dates will be after USDA approval.

For FSA only, all requests for using this authority are limited to FSA organization's budgetary funding and authorized full time employees (FTE's). No additional FTE's or funding is available for this authority.

Note: One FTE is equivalent to two half time DCW's

C Who Is Eligible

Individuals are eligible if they are annuitants under CSRS or FERS **and** they are **not** currently a federal government or an FSA county office employee. Foreign Service annuitants are **not** eligible.

There are limited circumstances in which an exception may be made for an existing reemployed annuitant, if retention is critical and **all** other provisions of the authority are met.

D Effective Date

The authority for USDA to approve DCW's is in effect until **December 31, 2019**.

2 DCW's

A USDA General Requirements

This authority is used at management discretion as an additional tool for workforce planning and meeting critical needs. Requests **must** be based on one of the permissible reasons granted under this new authority and accompanied by a written statement from the individual saying they will not accept the position without an approved salary offset. Dual compensation may be waived by USDA, if it is determined that the reemployment of an annuitant is necessary for one of the following seven reasons:

- fulfill functions critical to the mission of FSA and RMA or any component of the agency,
- assist in the implementation or oversight of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5) or the Troubled Asset Relief Program under Emergency Economic Stabilization Act of 2008, Title I (12 U.S.C. 5201 et seq.),
- assist in the development, management, or oversight of USDA procurement actions,

2 DCW's (Continued)

A USDA General Requirements (Continued)

- assist the Inspector General for USDA in the performance of the mission of the Inspector General,
- promote appropriate training of or mentoring programs for employees,
- assist in recruiting or retaining employees, and
- respond to an emergency involving a direct threat to life or property or other unusual circumstances.

DCW's are:

- limited to one year or less,
- limited in number of approvals to one percent of the agency's full time workforce, and
- cleared by the FSA/RMA human resources director or their designee, before being submitted to the department (requests should filter through one individual who has been designated responsibility to review the request to ensure compliance with the law and these requirements before submission to the department).

Hour/Time Limitations:

The NDAA for FY 2015 only extends the previous authority that was given under the NDAA for FY 2010. There is no provision for the time limitations to start over under the extended authority. Therefore, the maximum total of 3,120 hours of service performed by an annuitant must be calculated from the date of the initial dual compensation waiver and includes any waivers approved under the previous authority.

NDAA authority prohibits waiving the salary offset provision of Title 5, U.S.C. 8344 or 8468 to an annuitant for:

- more than **520** hours of service performed during the six months following the individual's annuity start date,
- more than **1,040** hours of service performed during **any** 12-month period, and

2 DCW's (Continued)

A USDA General Requirements (Continued)

- more than a total of **3,120** hours of service performed by the annuitant.

Notes: If the annuitant is re-employed for a mixed purpose that includes training and mentoring, the time he/she spends training and mentoring employees is not counted toward the time limits described above. However, the annuitant cannot spend more than a total of **520** hours in training and mentoring activities during all of their reemployment.

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

B Appointment Limitations

Because NDAA is intended for temporary and limited use, the provisions of Title 5 CFR 316.401(c)(1) are enforced. Title 5 CFR 316.401 prohibits temporary appointments for periods of more than one year. Appointments can be extended up to a maximum of one additional year (24 months of total service). Furthermore, a position may not be filled using a temporary appointment if the position has previously been filled by a temporary appointment for an aggregate of two years, or 24 months, within the preceding three year period (Title 5 CFR 316.404(c)(2)).

Temporary appointments for intermittent or seasonal work may be extended beyond the two year period of service as long as the appointments or extension are made in increments of one year or less and employment in the same or successor position under this or any other appointing authority totals fewer than six months (1,040 hours), excluding overtime, in a service year (Title 5 CFR 316.401(d)(1)(i) and (ii)).

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

Appointment Limitation Examples:

<u>Not Eligible for Extension Beyond 24 Months:</u>
Annuitant works 1,040 hours in first service year.
Annuitant works 1,030 hours in second service year.
Annuitant is not eligible for another temporary appointment.

<u>Eligible for Extension Beyond 24 Months:</u>
Annuitant works 1,039 hours in first service year.
Annuitant works 1, 039 hours in second service year.
Annuitant works 1,040 hours in third service year.
(Totaling 3,118 hours)

2 DCW's (Continued)

C FSA and RMA Specific Requirements

New positions will **not** be created for using this authority; existing established positions are to be used. Submit an addendum to the applicable established position description that addresses any differences in the duties (that is the project nature), including the additional duties of mentoring, coaching, and developing other employees that will be part of the reemployed annuitant's performance expectations and should be included in their performance standards. Compensation is set in the same manner as for all positions under the federal (GS) or non-federal (CO) pay plans. There is **no** change in authority for levels of pay, qualification requirements, specialized experience, etc. The grade is based on the classification of the established position and the step is set according to established pay setting requirements.

Note: A reemployed annuitant cannot be hired back at a higher rate of pay than previously held. For instance, a farm loan manager GS-12 supervisory can be rehired as a farm loan officer non-supervisory.

3 Limitations

A Work Schedules

If an employee works more than the maximum hours allowed according to subparagraph B, the supervisor must ensure that the employee is either:

- placed in a nonpay status until eligible to return to work, or
- terminated.

B Not to Exceed (NTE) Appointments and At-Will

When DCW's are approved the types of appointments that can be used are temporary, NTE one year, or less than one year when the anticipated need is for a shorter period. Temporary NTE appointments can be terminated at any time when there is a lack of work or funding. There is **no** guarantee of continued employment up to the NTE date.

In addition, reemployed annuitants are at-will employees; therefore, they can be separated at any time, with appropriate notification, for any legitimate reason and there are **no** RIF protections. Consult with the HRD, Employee Labor Relations and Benefits Branch when early termination is needed.

4 Approval Process

A Supervisor Responsibilities

Supervisors interested in using this authority must:

- contact their servicing HR office if more information is needed,
- ensure that ceiling slots and/or funding are available,
- contact annuitants to determine their level of interest/availability,

  Note: Work with servicing HR office if public notice is needed to obtain candidates.

- use all information in Exhibit 2 to develop and submit DCW requests in memorandum format,
- initiate an SF-52, recruit action, and include the following in the remarks,

  "Reemploy annuitant, *Individual's Name*, to work in temporary part-time position NTE__ months", and

- forward requests by August 15, 2016 (requests may be submitted after August 15, 2016 on an ad hoc basis) through the chain of command to the appropriate deputy administrator for approval and then forward the requests according to the following table.

IF for…	THEN forward requests to…	THEN to…	THEN e-mail to HRD at…
county	state office	DAFO	**patricia.murray@ia.usda.gov**
state	DAFO		**doug.dienhart@kcc.usda.gov**
national office	deputy or director		**ashinta.davis@kcc.usda.gov**.
other FSA offices and RMA			

4 Approval Process (Continued)

B HRD Responsibilities

HRD must:

- provide additional guidance and information to supervisors,
- maintain case files of all requests under this authority,
- review requests and ensure that requests meet the requirements of the authority,
- ensure that annuitants meet minimum qualification requirements for the desired position,

  Note: The annuitant must be fully qualified and eligible for the position, including core or basic qualification requirements and specialized experience.

- forward the request to the USDA, Office of Human Resources Management (OHRM) for consideration of approval,
- ensure that the Interagency Career Transition Assistance Plan/Career Transition Assistance Plan has been cleared when applicable,
- receive final approvals from USDA and notify the requesting office, and
- ensure that **all** reporting and legal requirements are met.

5 Processing DCW's and Contact

A Processing Guidance

Servicing HR offices must:

- include remark code A17 on the SF-50, Notification of Personnel Action, that states, "As a reemployed annuitant you serve at the will of the appointing officer.",
- use reinstatement authority 5 CFR 316.402 to appoint annuitants noncompetitively to appointment not-to-exceed positions for GS positions in the competitive service,
- use nature of action (NOA) code 115 or 515, as applicable for federal appointments,
- use temporary NTE positions for CO positions in FSA, and
- use NOA code 171 or 571, as applicable for CO appointments in FSA.

5 Processing DCW's and Contact (Continued)

B Contacts

For questions regarding the DCW program, contact the appropriate person according to this table.

IF questions about…	THEN contact…
FSA county offices	state administrative office.
FSA state offices	Doug Dienhart, HRD, by either of the following: • e-mail to **doug.dienhart@kcc.usda.gov**, or • telephone at 816-926-3152.
all other FSA and RMA offices	Ashinta Davis, HRD, by either of the following: • e-mail to **ashinta.davis@kcc.usda.gov**, or • telephone at 816-926-6526.

Statement of Acceptance of Approved Salary Offset

I, _____ understand that as a reemployed civilian retiree with a dual compensation waiver (DCW), I have requested approval under one of the permissible reasons granted under the authority of the National Defense Authorization Act (NDAA) of FY 2015, which extends the authority provided to USDA through December 31, 2019, and I will not accept the position without an approved salary offset.

_____ _____

Employee Signature Date

DCW Request

The following is provided for developing and submitting DCW requests in memorandum format.

Request for Approval of Reemployed Annuitant Without Salary Offset

Employing Agency and Regional/State/County Office, Division/Office: _____

Duty Station *(city/State)*: _____

Name of Individual for whom waiver is requested: _____

(Attach resume, last SF-50, and statement signed by annuitant.)

FORMER:	PROPOSED:
Title: _____	Title: _____
Series/Grade: _____	Series/Grade: _____
Retirement Date: _____	Length of Appt: 6 months ____, 1 year ____, or NTE Date:____
	# of hours to work per pay period: _____
	% of time devoted to training: _____

Point of Contact for Additional Information: _____

Telephone Number: _____ FAX Number: _____

Reason(s): *(Include one or more reasons from paragraph 2 in notice.)*

Justification: *(The justification **must** include a detailed description of all pertinent information as appropriate indicating one or more of the seven reasons this authority is being requested and the anticipated duration of the need. Other pertinent information that should be included when applicable could include; emergency or natural disaster, date occurred, expected duration; impact on life or property; relationship between the waiver request and mission; functions critical to the mission; functions that must be performed and why; potential costs or ramification of project failure or delay; impact to organization/agency of delay in filling position or not hiring individual; years of qualifying experience; individual's knowledge, skills and ability and how they are uniquely qualified or essential for successful completion; urgency of response; timelines, legislative or presidential deadlines; why work cannot be assigned to other employees; etc.)*

Requested by (*type name/title*):	Signature:	Date:
Approved by (*type name/title*):		