

For: FSA Offices

Reemploying Annuitants Without Salary Offset

Approved by: Administrator



1 Overview

A Background

The National Defense Authorization Act for Fiscal Year 2010, signed on October 28, 2009, provides a new authority for agencies to reemploy annuitants on a limited basis in part-time, temporary positions, **not** to exceed (NTE) 1 year or less with a dual compensation waiver (DCW). With DCW's, annuitants can receive both their full annuity and full salary. FSA can use reinstatement eligibility to hire annuitants that effectively provides a direct hire authority provided FSA clears any displaced employees with priority consideration.

B Purpose

This notice issues interim regulations for using this new provision requesting DCW. The procedures may change with issuance of OPM or USDA regulations. Until receipt of further guidance from USDA, 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.

C Who is Eligible

Individuals are eligible if they are annuitants under CSRS or FERS **and** they are **not** currently a Federal Government or FSA County Office employee.

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

D Effective Date

The authority for USDA to approve DCW's is in effect until October 27, 2014.

Disposal Date	Distribution
September 1, 2010 3-12-10	All FSA Offices; State Offices relay to County Offices

2 DCW's

A USDA General Requirements

Using this authority is at management discretion. This authority provides management with an additional tool for workforce planning and meeting critical FSA needs. Requests **must** be based on 1 of the permissible reasons granted under this new authority. Dual compensation may be waived by USDA if it is determined that the reemployment of an annuitant is necessary for 1 of the following 7 reasons:

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

DCW's may be needed for 1 or a combination of the permissible reasons and that **must** be documented in the justification for USDA consideration for approval.

DCW's apply to a particular annuitant for whom it is authorized and **only** while that individual continues to serve in the same position. If a reemployed annuitant with an approved DCW is reassigned to another position, or is separated for **any** reason, DCW approval ends. If there is a desire to back-fill a position using this authority, the request **must** be submitted for approval as a new request.

Authorities are **not** intended to address long term, on-going work, but rather are project-like activities **with an anticipated duration time**. They can be on-going project activities, but the intent is **not** for the individuals to perform all the duties of the position that they may have held before retirement. For these purposes, a project may encompass a large subset of the duties performed before retirement, but should be describable as a "project". For example, to:

- catch up a specific back-log of work
- handle a specific producer/participant signup period
- develop specific program policies, procedures or software
- develop/conduct an on-the-job training for a specific function or program
- conduct procurement for a specific need or activity.

2 DCW's (Continued)

B DCW Extensions

There are **no** extensions of the DCW authority. The request for DCW should indicate the time period for which it is needed. The time period for which the request is made should be supported in the justification.

If there is a need to continue the employment of the annuitant beyond the approved DCW period, FSA can request a new DCW. Follow the same procedures for requesting an initial DCW, indicating the reason/justification why the need still exists and how long that need is anticipated to continue.

If the new DCW is **not** granted, the reemployed annuitant **must** be separated or converted to an appointment without DCW.

C FSA Specific Requirements

Because of a large number of retirement eligible employees, FSA has a potential critical need for knowledge transfer and development of new employees to meet succession planning goals and ensure continued, consistent, and successful delivery of FSA's programs and mission. Therefore, 1 reason that FSA is **requiring** for **all** reemployed annuitant's hired under this authority is "to promote appropriate training of or mentoring programs for employees".

FSA will only consider requesting DCW if at a minimum at least 1/3 of the reemployed annuitant's time is devoted to specific duties that address mentoring, coaching, and development of other employees. This must be addressed in the justification when requesting a DCW under this authority.

New types of positions will **not** be created for using this authority in FSA; 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 development of 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 GS or 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.

3 Limitations

A Number of DCW's

The number of employees that may be reemployed under this authority is restricted and **must** be tracked; therefore, at this time, USDA (not the agencies) will maintain control of the approvals. The total number of DCW's USDA can approve without notification and justification to Congress and OPM **cannot** exceed 1 percent of the total full-time permanent USDA workforce at any time; even with the notification and justification, USDA may **not** exceed 2.5 percent of the USDA full-time permanent workforce at any time.

B Number of Hours Worked

There are also limitations on the number of hours that the reemployed annuitant may work. Hours worked by any annuitant reemployed under these provisions are limited to the following:

- 520 hours during the first 6 months of reemployment
- 1,040 hours during any 12-month period
- 3,120 hours maximum total for entire periods of reemployment.

The 3,120 hours would only apply if subsequent DCW's and appointments are approved for the same individual.

C Work Schedules

The authority and USDA interim guidance allows DCW only for part-time employment.

To obtain full benefit and to use each of these positions effectively, all reemployed annuitants hired under DCW in FSA will be established with a part-time work schedule of no less than 20 hours per week and up to a maximum 32 hours per week, or no less than 40 hours per pay period and up to a maximum 64 hours per pay period if approved for alternate work schedule.

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

- placed in a non-pay status until they are again eligible to work
- terminated.

D NTE Appointments and At-Will

When DCW's are approved, the types of appointments that can be used are temporary, NTE 1-year, or less than 1-year when the anticipated need is for a shorter period. Temporary NTE appointments can be terminated at any time by FSA 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 and; therefore, can be separated at any time, with appropriate notification, for any legitimate reason; they have **no** RIF protections. Consult with HRD, Employee and Labor Relations contacts when early termination is needed.

4 Approval Process

A Supervisor Responsibilities

Supervisors interested in using this authority shall:

- contact their SPO if more information is needed
- ensure that ceiling slots and funding are available

Note: Length of these temporary NTE appointments may be limited to the end of the FY because of budget considerations.

- contact annuitants to gain their interest

Note: Work with SPO if public notice is needed to obtain candidates.

- use the template in Exhibit 1 to develop and submit DCW requests

Note: Electronic copy available at:

<http://fsaintranet.sc.egov.usda.gov/ffas/hrd/default.htm>.

- forward requests through appropriate chain of command to the appropriate Deputy Administrator for approval; State Offices **must** send **all** State and county requests through DAFO
- FAX request to HRD at 202-205-9071 after Deputy Administrator approval is received.

B HRD Responsibilities

HRD shall:

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

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

- forward request to USDA, Office of Human Resources Management for consideration of approval

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4 Approval Process (Continued)

B HRD Responsibilities (Continued)

- ensure that the Interagency Career Transition Assistance Plan/Career Transition Assistance Plan has been cleared when applicable
- receive final approvals from USDA and notify requesting office
- ensure that **all** reporting and legal requirements are met.

5 Processing DCW's and Contact

A Processing Guidance

SPO's shall:

- include a remark on SF-50 that reemployed annuitant serves at the will of FSA
- use reinstatement authority 5 CFR 316.402 to appoint annuitants noncompetitively to "appointment not-to-exceed" positions for GS positions
- use temporary NTE positions for CO positions
- use Nature of Action (NOA) Code "115" or "515", as applicable for Federal appointments
- use NOA Code "170" or "570", as applicable for CO appointments.

B HRD Contact

For questions on the DCW Program:

- Field Office employees shall submit questions through their State Office
- National and State Offices shall contact Janice Barnes, HRD, by either of the following:
 - e-mail to janice.barnes@wdc.usda.gov
 - telephone at 202-401-0391.

Note: A Frequent Asked Questions site will be available through <http://fsaintranet.sc.egov.usda.gov/ffas/hrd/default.htm>.

DCW Request Template

The following is provided as a template for developing and submitting DCW requests.

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 and last SF-50.)		
FORMER: Title/Series/Grade: _____ Pay Plan: GS ___ CO ___ Other ___	PROPOSED: Title/Series/Grade: _____ Pay Plan: GS ___ CO ___ Other ___ Length of Appointment: _____	
Point of Contact for Additional Information: _____		
Phone Number: _____ FAX Number: _____		
The Farm Service Agency is requesting this dual compensation waiver under the criteria in 5 CFR 553, and National Defense Authorization Act for Fiscal Year 2010, Subtitle B, Section 1121-1122, to appoint the named individual to a limited not-to-exceed 1-year appointment under hiring authority in 5 CFR 316.402(b)(1) for GS and agency specific hiring authority granted in 7 CFR 7.25 (b) (1) for CO.		
Reason: <i>(See paragraph 2 in Notice.)</i>		
Justification: <i>(The justification must include a detailed description of all pertinent information as appropriate indicating which of the 7 reasons that this authority is being requested for 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; 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.)</i>		
Agency, Office Name & Approver Name	Signature	Date
FOR USDA OFFICIAL USE ONLY:		