OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE
4000 DEFENSE PENTAGON
WASHINGTON, DC 20301-4000

FORCE MANAGEMENT
POLICY

24 SEP 2002

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Personnel Issues Related to Attacks on the World Trade Center and Pentagon – Appointment Authority and Policy Waivers

By memorandum dated September 17, 2001, the Under Secretary of Defense for Personnel and Readiness advised the Secretaries of the Military Departments, Chairman, Joint Chiefs of Staff, Director, Administration & Management, and the Directors of the Defense Agencies of the Office of Personnel Management (OPM) appointment and waiver authorities available in support of rescue, recovery, investigation, military support, and directly related functions in the wake of attacks on the World Trade Center and the Pentagon. On August 2, 2002, OPM extended the four emergency hiring and pay flexibilities scheduled to expire September 30, 2002 (OPM memorandum attached). Addressees may now use these flexibilities for the duration of the national emergency.

The four emergency flexibilities provide for:

1. Emergency Temporary Appointments under Schedule A;
2. SES Limited Emergency Appointments;
3. Salary Offset Waivers to Reemploy Annuitants; and
4. Voluntary Separation Incentive Payment (VSIP) Buyout Repayment Waivers.

With respect to salary offset and buyout repayment waivers, OPM delegated authority to waive salary offset/dual compensation reductions for temporary positions and granted a waiver for buyout repayment to temporarily rehire former Federal employees. Where these authorities have been used over the past year, you may now extend the not-to-exceed date of the individual waivers for up to one year on a case-by-case basis, provided no other reasonable staffing options exist and the work is necessary to respond to the terrorist attacks or to combat terrorism. In addition you may approve repayment waivers for any new appointments in support of security, rescue, investigative, and directly related functions associated with the attacks on the World Trade Center and the Pentagon. Regardless of the duration of the extended authority, the individual's total employment under these waivers may not exceed two years.

The August 2, 2002, OPM memorandum changes buyout repayment waiver reporting requirements. However, for the report due by November 14, 2002, that documents FY 2002 actions, you should comply with the original reporting requirements

provided the OPM letter of September 14, 2001. Subsequent annual reports should comply with the requirements in the OPM August 2, 2002, memorandum, and be received by the CARE Division by November 14 of each year. Completed reports should be forwarded through the chain of command to the Defense Civilian Personnel Management Service, CARE Division, 1400 Key Boulevard, Suite B-200, Arlington, VA 22209-5144.

My point of contact for buyout repayment waivers is Mr. Jorge Araiza, who can be reached at (703) 696-1799, or by email at jorge.araiza@cpms.osd.mil. For the other flexibilities, my point of contact is Ms. Beth Baird, who can be reached at (703) 696-1622, or at beth.baird@cpms.osd.mil.

Ginger Groeber
Deputy Assistant Secretary
Civilian Personnel Policy

Attachment:
As stated

DISTRIBUTION: ASSISTANT G-1 FOR CIVILIAN PERSONNEL POLICY, DEPARTMENT OF THE ARMY
DIRECTOR, PLANS, PROGRAMS, AND DIVERSITY, DEPARTMENT OF THE NAVY
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COMMANDER, HEADQUARTERS, ARMY AND AIR FORCE EXCHANGE SERVICE

UNITED STATES
OFFICE OF PERSONNEL MANAGEMENT
WASHINGTON, DC 20415-1000

OFFICE OF THE DIRECTOR

MEMORANDUM FOR DIRECTORS OF HUMAN RESOURCES

FROM: RICHARD A. WHITFORD
Acting Associate Director for Employment

K. JOYCE EDWARDS
Director, Office of Executive Resources Management

SUBJECT: Extension of 9-11 Emergency Hiring Flexibilities

OPM Director Kay Coles James sent the enclosed memo to the heads of departments and agencies (Enclosure 1). This memo announces extension of the four emergency hiring flexibilities that were to expire September 30, 2002. Information in Enclosure 2 will help you use these four flexibilities for the duration of the state of national emergency.

These four emergency hiring flexibilities provide for:

1. Emergency Temporary Appointments under Schedule A,
2. SES Limited Emergency Appointments,
3. Salary Offset Waivers to Reemploy Annuitants, and
4. VSIP Buyout Repayment Waivers.

OPM's Offices of Employment Policy and Executive Resources Management are available to assist you and to answer any questions you may have on these or other staffing matters. Contact the Office of Employment Policy at (202) 606-8097 or by fax at (202) 606-2329 for assistance with questions involving flexibilities for positions equivalent to General Schedule (GS) levels 15 and below. Contact the Office of Executive Resources Management at (202) 606-2246 or by fax (202) 606-0557 for assistance with questions involving Senior Level and SES staffing flexibilities.

Enclosures

UNITED STATES
OFFICE OF PERSONNEL MANAGEMENT
WASHINGTON, DC 20415-1000

OFFICE OF THE DIRECTOR

AUG 0 2 2002

MEMORANDUM FOR HEADS OF DEPARTMENTS AND AGENCIES

FROM: KAY COLES JAMES
Director

SUBJECT: Extension of 9-11 Emergency Hiring Flexibilities

On September 13, 2001, I authorized four emergency hiring flexibilities to assist you in responding to the terrorist attacks. These authorities were to end on September 30, 2002. To help you to continue to combat terrorism, I am pleased to extend these flexibilities until the President or Congress terminates the state of national emergency.

These four emergency hiring flexibilities provide for:

1. Emergency Temporary Appointments under Schedule A,
2. SES Limited Emergency Appointments,
3. Salary Offset Waivers to Reemploy Annuitants, and
4. VSIP Buyout Repayment Waivers.

We will send detailed information on using these flexibilities to your Human Resources Director.

We will also be working with your offices to obtain information on your use of these authorities and to determine whether there are other opportunities to assist you.

cc: Directors of Human Resources

Extension of 9-11 Emergency Hiring Flexibilities

The Director of the Office of Personnel Management (OPM), Kay Coles James, has extended the four 9-11 emergency hiring flexibilities until the President or Congress terminates the "Declaration of National Emergency by Reason Of Certain Terrorist Attacks" under 50 U.S.C. 1622. The following replaces guidance issued on September 13, 2001, in Human Resources Management Council (HRMC) message 72a, www.opm.gov/hrmc/2001/msg-072a.htm.

1. Emergency Temporary Appointments under Schedule A

Background: Director James gave all Executive agencies Schedule A authority 5 CFR 213.3102(i) (3) to fill positions needed to respond to the terrorist attacks on a temporary emergency basis for up to 1 year.

Extension: Director James has extended this Schedule A authority for the duration of the state of national emergency. This enables you to make temporary appointments to fill positions affected by or needed to deal with the terrorist attacks. In addition, you may extend Schedule A appointments made under this authority for up to 1 year. However, all actions must meet the definition of temporary found in 5 CFR 213.104 and therefore actions under this Schedule A authority may not exceed a total of 2 years for an individual. This authority remains available to fill Senior Level positions, as well as positions at lower levels. You may use a Senior Level space allocation on a one for one basis, as required, to effect immediate appointment of an individual using these flexibilities. You must report each Senior Level space allocation to OPM within 10 days of the appointment. You may use this authority to replace an employee called to active duty.

Transition Guidance: If you anticipate any continuing need for a position beyond the 2-year limit, please review your competitive and excepted service appointing options and initiate appropriate staffing actions as soon as possible. For rare and unusual circumstances, you may request a brief extension beyond the 2-year limit in 5 CFR 213.104(b) (3) (iii).

2. SES Limited Emergency Appointments

Background: Under 5 CFR 317.601(c)(1), executive agencies are provided a pool of limited appointment authorities equal to 3 percent of their Senior Executive Service (SES) allocation, or one authority, whichever is greater. An agency may use the pool to make a limited appointment only of an individual who has a career or career-conditional appointment (or an appointment of equivalent tenure) in a permanent civil service position outside the SES. The Office of Executive Resources Management has provided immediate processing under 5 CFR 317.601(c)(2) for executive agency requests for limited appointment of individuals other than current career or career-conditional (or equivalent) employees to positions established to respond to the national emergency.

Extension: OERM will continue to process immediately agency requests for limited appointment of individuals who are other than current career or career conditional (or equivalent) employees to positions established to deal with the national emergency and will also consider temporary space allocations when you identify this as essential to support their appointments. Special handling will continue until the President or Congress terminates this emergency. We encourage you to make limited emergency appointments for the shortest time possible as opposed to automatically making 18 month appointments.

Transition Guidance: If a SES limited emergency appointee's work becomes a longer-term project, such as establishing procedures or an infrastructure to deal with future terrorist attacks, you may ask OPM to approve a new SES limited term appointment for that individual. You must describe the project nature and the expected duration of the assignment. Note that no individual can serve more than 36 months in any 48 month period under any combination of SES limited emergency and term appointments. If you expect the work to become permanent, you should initiate staffing actions needed to permanently hire employees to accomplish the work.

3. Salary Offset Waivers to Reemployed Annuitants

Background: Director James offered executive agencies delegated authority to waive the dual compensation reduction (salary offset) to hire retirees when necessary to respond to the terrorist attacks. Generally, we approved agency requests for 9-11 delegated authorities and individual waivers within 24 hours of receipt. These waivers were to expire September 30, 2002.

Extension: Director James has extended the ending date of delegated authorities approved to respond to the 9-11 terrorist attacks for the duration of the state of emergency. You may extend existing 9-11 waivers for up to 1 year and approve new 9-11 waivers consistent with the requirements of your delegated authority. The total employment under a waiver for any individual annuitant may **not** exceed 2 years, unless a longer period is specifically permitted by your delegation. You may use this delegated authority to replace an employee called to active duty when you have no other reasonable staffing option.

Transition Guidance: The law, 5 U.S.C. 8344 and 8468, limits waivers approved under delegated authority to "a temporary basis, but only if, and for so long as, the authority is necessary due to an emergency involving a direct threat to life or property or other unusual circumstances." For work of a continuing nature or likely to exceed 2 years, you should initiate appropriate staffing actions to hire and/or train a qualified individual not requiring this waiver. Further, you must periodically ensure no other reasonable staffing option exists.

You may request extensions of individual waivers or request a new or modified delegation under criteria in 5 CFR 553. Except for project work with a known end date, extension requests should describe your all sources recruiting efforts, the lack of available qualified candidates and your plans to use other flexibilities and incentives to hire and/or train an employee not requiring this waiver. We encourage you to offer hiring incentives in 5 CFR 572 and 575, when appropriate, before requesting a salary offset waiver.

4. VSIP Buyout Repayment Waivers

Background: Director James granted waivers for VSIP buyout repayment to the following 10 departments and agencies: Departments of Commerce, Defense, Justice, State, Transportation, Treasury and Veterans Affairs; General Services Administration; Nuclear Regulatory Commission; and the Executive Office of the President. These waivers were to expire on September 30, 2002, and required a report to OPM within 60 days thereafter.

Extension: Director James has extended the ending date of these 10 waivers for the duration of the state of emergency and reminds the 10 departments and agencies above to report on the repayment waivers granted by November 30. You may extend the not-to-exceed date of individual waivers for up to 1 year on a case-by-case basis if you have no other reasonable staffing option and the work is necessary to respond to the terrorist attacks or to combat terrorism. In addition, you may approve new repayment waivers consistent with your agency's letter. The total employment under waivers you grant to any individual may **not** exceed 2 years. Please report for each waiver granted the individual's name, SSN, organization, job title, series, grade, appointment authority, duty station and duration (effective and end or not-to-exceed date). Please fax your annual report to Richard Whitford at (202) 606-1637, by November 30, each year, including 2002. Negative reports are requested.

Transition Guidance: We encourage you to initiate appropriate actions to accomplish continuing work without this waiver. In unusual circumstances, you may request further waivers under criteria in 5 CFR 576.102.