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ADS Chapter 494

Civil Service Retirement

Partial Revision Date: 02/10/2012
Responsible Office: HCTM/ELR
File Name: 494_052213

Functional Series 400 – Human Resources
 ADS Chapter 494 – Civil Service Retirement
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ADS Chapter 494 – Civil Service Retirement

494.1 OVERVIEW

This chapter provides the policies and procedures for governing retirement for Civil Service employees who are participants in the Civil Service Retirement System (CSRS) and the Federal Employees Retirement System (FERS).

All employees are covered by the retirement system except those specifically excluded by law or regulation of the Office of Personnel Management (OPM) and those in the USAID Foreign Service participating in the Foreign Service Retirement and Disability System or the Foreign Service Pension System of the Department of State.

494.2 PRIMARY RESPONSIBILITIES

- a. The **Office of Personnel Management (OPM)** is responsible for:
 1. Issuing regulations and instructions;
 2. Adjudicating and determining benefits;
 3. Maintaining records of retired employees; and
 4. Delegating to individual agencies their responsibilities under the system.

- b. The **Office of Human Capital and Talent Management, Employee Services and Benefits Branch (HCTM/POD/ESB)** is responsible for:
 1. Determining eligibility for retirement coverage;
 2. Preparing and maintaining individual retirement records;
 3. Counseling and informing employees of their retirement rights and responsibilities under the law and giving assistance to claimants including survivors of deceased employees;
 4. Furnishing retiring employees (or otherwise separated) with a Certified Summary of Federal Service (SF 2801-1); and
 5. Promptly processing retirement papers and claims.

- c. The **Bureau for Management, Office of the Chief Financial Officer (M/CFO)** is responsible for:
 1. Withholding retirement deductions;

2. Completing individual retirement records and ensuring their accuracy; and
3. Transmitting official retirement processing documents to OPM.

494.3 POLICY DIRECTIVES AND REQUIRED PROCEDURES

The statements contained within the .3 section of this ADS chapter are the official Agency policies and corresponding essential procedures.

494.3.1 Eligibility Requirements

There are two general requirements, which all retiring employees must meet under Civil Service Retirement System (CSRS) and Federal Employees Retirement System (FERS). They are:

- a) The employee must have at least five years of civilian service with the Federal government; and
- b) Unless retiring due to total disability, the employee must have been employed under the CSRS for at least one year out of the last two years preceding final separation. There is no "1-out-of-2" requirement under FERS as there is under CSRS. Thus, an employee who elects to transfer to FERS does not have to be under FERS for one year to be eligible to retire. It is possible for an employee's separation for retirement to occur on the same day (but not before) the FERS election becomes effective, provided that the employee meets the other requirements.

494.3.2 Types of Retirement

There are two classes of retirement:

- a) Immediate Retirement: If an employee meets the general requirements and any combination of minimum age and service described in the following sections, the employee may retire and be paid an immediate annuity;
- b) Deferred Retirement: An employee who meets the general requirements, and who is separated from the federal service for any reason before meeting the age requirement for an immediate annuity, may receive a deferred annuity that is payable only upon attainment of age 62, unless the employee waives rights to this annuity by applying for and being paid a refund of retirement deductions made; and

NOTE: Mandatory Retirement: By law, effective September 30, 1978, the former mandatory separation requirement Federal employees who attain age 70 is removed. There is no longer a mandatory retirement age for employees covered under Civil Service Retirement System (CSRS) or Federal Employees Retirement System (FERS).

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494.3.2.1 Immediate Retirement

There are three types, of immediate retirement. Each is identified in this chapter with minimum age and service eligibility indicated as well as any special requirements.

1) Optional Retirement

Employees may elect optional retirement (sometimes called "early out") at a minimum age of 62 with at least five years of service; at the minimum age of 60 with at least 20 years service; or at the minimum age of 55 with 30 years of service. The minimum age and service for law enforcement officers is age 50 with 20 years of service. Employees at any age with at least 25 years of service may retire when the agency is undergoing a major reduction in force, reorganization, or transfer of function, as determined by OPM; in these two latter cases the annuity is reduced by 1/5 percent for each full month (two percent a year) under age 55. In addition employees under Federal Employee Retirement System (FERS) who reach the Minimum Retirement Age (MRA) and have at least 10 but less than 20 years of creditable service may receive an immediate annuity. The benefit is reduced at the rate of five percent a year for each year you are under age 62. Under the MRA provision to lessen or avoid the reduction in annuity, an employee may postpone receipt of benefits until as late as age 62.

2) Disability Retirement

An employee of any age - with at least five years of service - who is disabled for useful and efficient service in a current or in any other vacant agency position in the same commuting area at the same grade and pay level or which the employee is otherwise qualified, may qualify for disability retirement. Under FERS the length of service requirement is 18 months.

3) Discontinued Service Retirement

An employee at age 50 or more with at least 20 years of service, or an employee at any age with at least 25 years of service, may qualify for discontinued service retirement in cases of involuntary separation from the federal service which do not result from misconduct or delinquency; in this case, the annuity is reduced by 1/5 percent for each full month (two percent a year) under age 55. Discontinued service retirement can also apply if the employee has been removed from the Senior Executive Service (SES) for less than fully successful performance, but if the SES member is not recertified, there is no reduction of annuity on account of age.

494.3.3 Coverage

CREDITABLE SERVICE:

Retirement credit is given for both civilian and military service performed for the Federal government with certain exceptions. Generally, full time credit is allowed for such employment.

a) Civilian Service

Credit may be given for civilian service in all three branches of the Federal government, and also in the government of the District of Columbia. This service may be performed at different times; in one or more agencies, independent offices, or branches of the government; and during, before, or after the employee has acquired a retirement status (but before the date of a separation on which an annuity is based).

Payment is received for service in order for this service to be creditable for retirement purposes. Credit is granted for all leave with pay, and for time on the rolls in a non-pay status which does not exceed six months in a calendar year.

1. **Armed Service Employees:** An employee serving with the armed forces who is carried, or is presumed to be carried, on the rolls of an agency in a furlough or leave-without-pay status is entitled to credit for the entire period of leave of absence while performing military service up to December 31, 1956, or until completion of five years of this military service, whichever occurs later.

2. **Workers' Compensation:** If the employee is receiving benefits from the Office of Workers' Compensation Programs, retirement credit is given for the entire period if the employee is carried on the rolls of the agency in a leave-without-pay status. Also, full credit is allowed for all, or a portion of, the period of separation during which a former employee was in receipt of workers' compensation, provided the person is later re-employed in federal service. The period of service represented by a lump-sum payment for accrued and accumulated leave is not creditable.

3. **Federal Employee Retirement System (FERS):** Under FERS if employees withdraw their contribution and later return to federal service, FERS rules do not allow employees to make a redeposit in order to get credit for that time in the annuity calculation. Once an employee covered under FERS makes a withdrawal of retirement contributions, the period of service, which

the withdrawal represents, cannot later be credited with a deposit. (Refer to section **494.3.22**).

4. Service Under Civil Service Retirement System (CSRS): Service under CSRS for which retirement deduction are refunded to an employee is included if a redeposit of the refund is made. If no redeposit is made this service is not included in length of service for annuity computation, but it is included for all other purposes (i.e., leave accrual, etc.). Employees whose annuities begin on or after December 2, 1990, and who retire (other than on disability) while owing a redeposit of a refund for service that ended before October 1, 1990, will not have to pay the redeposit. Full credit for the refunded service is allowed, but the annuity be actuarially reduced. (Refer to section **494.3.31**).

5. Retirement Deductions: If retirement deductions were not made for a period of service, credit may generally be given without deposit to cover this service. If deposit is not made, however, the annuity payable is subject to reduction. This applies to deposits for service performed before October 1, 1982. For service performed on or after that date, a deposit must be made for the service to be creditable unless no deposit is required by law.

b) Credit for Military Service

Any employee first employed by the Federal government under the CSRS or the FERS on or after October 1, 1982, will receive civil service retirement credit for the post-1956 military service at time of retirement only if a deposit of seven percent is made for the military base pay the individual received for the post-1956 military service. Unless the deposit was made prior to October 1, 1986, interest will be charged on the amount deposited at an annual rate determined by the Treasury Department. (Contact the Office of Human Capital and Talent Management, Personnel Operations Division, Employee Services and Benefits, HCTM/POD/ESB for rates).

Individuals who were first employed by the Federal government under the CSRS before October 1, 1982, will have the option of either:

1. Making the seven percent deposit for post-1956 military service, thereby avoiding a reduction in annuity at age 62 if the individual is eligible for Social Security benefits; or
2. Receiving credit as in the past and having one's annuity adjusted at age 62 if the individual is eligible for Social Security benefits. Included are individuals who were previously employed

under the Civil Service Retirement System (CSRS) and who returned to employment under the retirement system after October 1, 1982.

494.3.4 Deposits

Employees who have creditable service before September 30, 1982, for which deductions were not made, for any reason, shall receive credit for this service in the computation of annuity benefits without making any deposit to cover that period of service. If, however, a deposit is not made by the employee or by a survivor, the annuity otherwise payable is reduced by an amount equal to 10 percent of the balance due, unless the employee elects to eliminate the service entirely from credit for annuity computation purposes. The elimination of a period of service from credit is advisable only when other service sufficiently entitles the employee to maximum annuity.

Employees are required to make a deposit, with interest, for entire periods of non-deduction (previously referred to as optional) service performed on or after October 1, 1982, before such service can be used in the annuity computation. If a deposit is not made, the service will still be creditable for purposes of establishing entitlement to an annuity. However, if a deposit is not made for such service, no credit is allowed in the computation of the annuity.

Annuitants re-employed in the federal service must make a service credit deposit for the portion of the re-employment service performed on or after October 1, 1982, in order to have such service considered in the computation of a supplemental annuity.

494.3.4.1 Redeposits

Under the FERS an employee who received a refund of retirement deductions under FERS cannot upon retirement from federal service, make a deposit and receive credit for that time.

Under PL 101-508, effective November 5, 1990, employees under the CSRS whose annuity begins on or after December 2, 1990, and who retire (other than on disability) while owing a redeposit of a refund for service that ended before October 1, 1990, will not be required to pay the redeposit in order to receive credit for the refunded service.

Retiring employees must pay redeposits for refunds that cover service ending on or after October 1, 1990, in order to receive credit for that service in the computation of their annuity. Those who are eligible for and choose lump sum distributions will continue to have all civilian service credit deposits deemed paid. Those who are not eligible for or do not elect lump sum distribution are still subject to the normal rules governing deposits for non-deduction service.

If an employee has received a refund of retirement deductions under CSRS or any other system for the retirement of government employees, the employee or a survivor

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must make a redeposit before the service can be credited in the computation of annuity benefits. A redeposit consists of the amount refunded to the employee plus interest. An employee may not apply to make a redeposit to cover only a portion of a period of service for which deductions were refunded.

Full credit for the refunded service will be allowed in computing the annuity, but the annuity must be actuarially reduced. The reduction must be the amount that results if a lump sum in the amount of the redeposit was paid. This sum is calculated using the same actuarial factors currently used to determine the reduction when computing an alternative annuity.

494.3.4.2 Interest Rates

For non-deduction civilian service performed before October 1, 1982, interest is charged at the rate of 4 percent per year up to December 31, 1947, and at the rate of 3 percent per year thereafter, compounded annually. (Check with HCTM/POD/ESB on rates).

For non-deduction civilian service performed on or after October 1, 1982, and for redeposits of refunds on or after October 1, 1982, interest is charged at the rate of 3 percent per year through December 31, 1984, and, thereafter, at the yearly rate determined by the Secretary of the Treasury, compounded annually.

Effective January 1, 1985, the interest rate charged on deposits for periods of military service performed on or after October 1, 1982, and for redeposits of refunds on or after October 1, 1982, was changed from the former three percent compounded annually to a variable rate that is determined annually by the Secretary of the Treasury.

For post-1956 military service, no interest is charged on a deposit for military service, if that deposit was made before October 1, 1986, or within two years of the date that an individual first becomes a covered employee, whichever is later. If a deposit for military service is not made within the "grace period," annually-compounded interest is charged on the outstanding balance until payment is completed. Annually-compounded interest is charged at a yearly rate determined by the Secretary of the Treasury.

The variable interest rate also applies to interest earned by voluntary contributions. It will not, however, apply to interest paid on refunds of civil service retirement deductions or any other lump sum payment which may become payable from the Civil Service Retirement and Disability Fund. Interest paid on refunds continues at three percent.

494.3.5 Voluntary Contributions

An employee who wishes to obtain a larger retirement annuity than is otherwise provided may make voluntary contributions to the Retirement Fund to purchase an additional annuity. However, if an employee owes a deposit or redeposit for civilian service, the employee is eligible to make voluntary contributions only after the deposit

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or redeposit is paid. Voluntary contributions are made only in amounts of \$25 or in multiples of \$25 (\$50, \$75, etc.). Total contributions may not exceed 10 percent of the total basic pay an employee received during all of the employee's Federal service.

494.3.6 Computation of Annuities

The amount of annuity payable depends primarily on the length of service and the so-called "high-3" average pay of the employee. Other considerations are: additional separate annuity for voluntary contributions, reductions for retirement before age 55, failure to make deposit for non-deduction service or redeposit for refunded service, and election of a survivor-type annuity.

General Formula for Computing Basic Annuities (CSRS)

The approximate basic retirement annuity determined by using the general formula as follows:

Step 1. Take 1.5 percent of the high-3 average pay and multiply the result by service up to five years.

Step 2. Add: 1.75 percent of the high-3 average pay multiplied by the number of years of service between five and 10.

Step 3. Add: 2 percent of the high-3 average pay multiplied by all service over 10 years.

Step 4. Result: Estimated annuity.

494.3.6.1 Length of Service

Length of Service. Length of service includes the total years and months of all periods of federal service, including creditable military service and unused sick leave. Days that do not total 30 are dropped. Length of service cannot include, however, any period for which the employee was paid a refund of retirement deductions-unless redeposit of the refund with interest was made. Length of service calculations also must not include any period of non-deduction service on and after October 1, 1982, unless a deposit with interest was paid. This does not include the period before October 1, 1990, for which no redeposit is required from employees whose annuity begins on or after December 2, 1990. Full retirement credit will be given for this service, but the amount of the annuity will be actuarially reduced. The reduction will be that which would result if a lump sum in the amount of the redeposit was paid, using the same actuarial factors currently used to determine the lump sum reductions.

In the CSRS, calculation of unused sick leave is converted to work days and is included in the employee's length of service when computing an annuity. Under the FERS, unused sick leave is not credited in computing an annuity unless the employee

transferred from the CSRS with at least five years of creditable service to the FERS. In those instances, sick leave is frozen at the time of transfer and the employee is allowed credit for the lesser of the amount of frozen sick leave or the balance at the time of separation. Sick leave may not be used, however, in determining average pay or length of service for retirement eligibility purposes for either system. Additional annuity earned from crediting sick leave under CSRS is not subject to the 80 percent ceiling.

494.3.6.2 Average Pay

Average Pay ("High-3"). This is the highest average annual pay produced by the employee's basic pay rates during any three consecutive years of service. Within-grade periodic pay increases, as well as hazard duty, administratively uncontrolled overtime, and night differential pay (for wage board employees) are all considered basic pay for purposes of calculating the "high-3" average. Additional pay, such as regular overtime and allowances, is not considered in retirement annuity average pay computation.

494.3.6.3 Annual Leave Payment

Annual Leave payment. The lump sum payment for accrued annual leave may exceed the 240-hour limitation if retirement takes place within the leave year in which the excess is earned.

494.3.6.4 Basic Pay

Basic Pay. Basic pay is the rate of annual basic pay (not the pay actually received by the employee) except where noted below. Included in the basic pay rate are: environmental and tropical differential pay, and for law enforcement officers, premium pay for administratively uncontrolled overtime. Excluded from basic pay are: foreign post differential pay for wage board employees; night differential pay and foreign or non-foreign post differential pay for General Schedule employees; bonuses and allowances; overtime, holiday, and military pay; and any lump sum payment covering accrued and accumulated leave.

494.3.7 Voluntary Retirement Processing

An employee who meets the age and service requirements for voluntary retirement must complete the following forms in order to apply for retirement benefits.

- "Application for Immediate Retirement" (SF-2801)
- "Post Retirement BASIC Life Election" (SF-2818)
- "Designation for Beneficiaries for FEGLI" (SF-2823)
- "Designation of Beneficiary for Unpaid Compensation" (SF-2808)
- Locator Information (Optional)
- Affidavit RE: 5 USC, Section 3582

Read forms carefully and thoroughly before completing. For assistance contact the Office of Human Capital and Talent Management, Personnel Operations Division, Employee Services and Benefits Branch (HCTM/POD/ESB).

HCTM/POD/ESB shall review the employee's official personnel folder to ensure that age and service requirements are met. A Certified Summary of Federal Service which lists all verified Federal civilian and military service must be prepared. The employee be is given the opportunity to review and sign the Certified Summary for completeness and accuracy. Once all forms are received, HCTM/POD/ESB completes the initial processing of the employee's application and related records are then sent to the payroll office for processing and submission to OPM.

The payroll office authorizes final salary payment after an employee separates for retirement and a lump sum payment for any unused annual leave the employee has on their record. The payroll office then certifies and closes out the Individual Retirement Record, which is the official record of an employee's federal service history. After completing all actions necessary in processing a case, the retirement package is forwarded to Office of Personnel Management (OPM) for final adjudication.

494.3.7.1 Involuntary Retirement Processing

Same procedures as described in section 494.3.7.

494.3.8 Disability Filed by Employee

Although the employee usually applies for disability retirement, it may be made by a guardian or other interested person. If made by a guardian or other interested person, the application must be filed before separation or within one year thereafter. This time limit applies to separated employees who elect to receive compensation for work injuries.

The Office of Human Capital and Talent Management, Personnel Operations Division, Employee Services and Benefits Branch (HCTM/POD/ESB) will counsel and assist the employee and/or guardian in completing the Application for Retirement (SF-2801). If capable of working, the employee is kept in a work status until notified by the Office of Personnel Management (OPM) of its decision on the disability application.

A statement from the employee's superior will be completed on the Superior Officer's Statement (SF-2801A).

494.3.8.1 Medical Reports/Records

A complete medical report from the employee's attending physician is required in every case of disability retirement. This information is obtained by the employee on a Physician's Statement (SF-2801B). If the employee does not wish to use this form, a statement on the physician's stationary is acceptable provided it fully describes all

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physical signs of existing disease or injury and states the physician's opinion of the degree to which the applicant is disabled for useful and efficient service. The statement must give the physician's opinion of the date on which disability began and state whether the disease is due to vicious habits or willful misconduct. The physician must submit the statement directly to the Employee Services and Benefits Branch (HCTM/POD/ESB).

If the employee was hospitalized for an ailment or disease related to the disability within two years immediately preceding the date of disability retirement, a Request for Medical Records (Form SF 2801-D) must be completed. The hospital must forward the completed form directly to the Agency.

The HCTM/POD/ESB is available to give assistance to employees in completing the application, obtaining the necessary statement from the employee's supervisor, explaining the requirements of a physician's statement, and getting a statement from the employee to accompany the application showing any unverified prior service. The Retirement Office will assist the employee in selecting the type of annuity best suited to the circumstances, and explaining the effect of making deposits and redeposits.

494.3.8.2 Federal Employees Government Life Insurance Program

If the employee is insured under the Federal Employees Government Life Insurance Program, and Federal Employees Health Benefits Program, and retires with less than 12 years of service, the employee may retain coverage as an annuitant only if retirement is because of disability. A totally disabled employee with fewer than 12 years of service but eligible for optional retirement apply for disability retirement in order to ensure retention of these coverages.

494.3.8.3 Retiring Application – Office of Personnel Management (OPM)

A ruling by the Office of Personnel Management that an employee is totally disabled applies only to the ability of the employee to perform the duties of the position held or a comparable position.

Any action to change the employment or leave status while the retirement application is pending is subject to job protection regulations. If OPM denies the application for disability retirement, the employee may appeal such decision to OPM.

If the employee has been separated more than 30 days, the retirement application may be sent directly to the Office of Personnel Management, Bureau of Retirement, Insurance, and Occupational Health, Washington, D.C. 20415. It must be accompanied by a statement of the attending physician.

Unless the employee already has been separated, the OPM notifies USAID of its action to allow or disallow a claim. If the disability retirement is allowed, USAID takes one of the following actions:

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- 1) If the employee is on annual leave or leave without pay, the Agency will separate the employee as of the date the notice was received;
- 2) If the employee is on sick leave, the Agency will separate the employee as of the date the leave expires; and
- 3) If the employee is in duty status, grant the employee any sick leave to which entitled, and separate the employee as of the date the leave expires.

494.3.9 Disability Retirement Filed by The Agency

A preliminary decision must be made by the HCTM/POD/ESB, in consultation with the employee's supervisor, that performance, attendance, or behavior is below the level of acceptability and that a health problem exists which could account for the deficiencies. HCTM/POD/ESB must establish evidence of a prima facie case that the service of the employee is not useful and efficient and that apparent cause is a mental or physical illness or injury not of a transient nature. The evidence shall be such that it warrants consideration of the removal of the employee from the service under adverse action procedures, if medical findings do not support disability retirement.

When an employee refuses to apply for disability and HCTM/POD/ESB considers that deficiencies in an employee's service were caused by a possible health problem, it may file the application for disability retirement. If the application is made by HCTM/POD/ESB, it must be filed with the Office of Personnel Management before the employee is separated.

HCTM/POD/ESB counsels the employee to discuss various alternatives open before any formal action is started. If no alternative course of action is possible, the employee may be asked to report for a fitness for duty medical examination. A written notice ordering the employee to take the examination is issued by HCTM/POD/ESB and given to the employee. It tells the employee the reasons for the examination, right to be represented, and instructions for selecting a medical examiner, if desired.

An employee who objects to being examined and is unwilling to select a different medical examiner may be given an adverse action for refusing to report for an examination so directed.

All available information pertinent to the possible health problem of the employee is presented to the medical examiner, or a designated physician selected by the employee in writing, and to the employee. If further examinations are required, these must be recommended by the medical officer.

494.3.9.1 Psychiatric Examination

The statements contained in 494.3.9.1 through 494.3.9.1(4) of this ADS chapter are the official Agency essential procedures.

If the supervisor or other manager familiar with the performance of the employee decides that the behavior of the employee is such as to raise the possibility that the illness is mental or emotional, or if a physical examination was made and the medical officer recommends a psychiatric examination:

An employee may not be ordered to report for a psychiatric examination unless a majority of a panel of at least three USAID officials agree that the circumstances warrant such action;

If a majority of the USAID panel agrees that a psychiatric examination will be required, such an examination will be ordered as follows:

- 1) If a psychiatric examination is ordered, appointment of a representative is required prior to the examination. An employee may name a representative at any time. Failure to name one voluntarily results in HCTM/POD/ESB appointing a representative who is given copies of all notices, determinations, or other written communication issued to the employee. HCTM/POD/ESB may select a representative who is a family member, union officer, veterans service officer, or if no other representative is available, an employee of USAID; and
- 2) A written notice to the employee is prepared by HCTM/POD/ESB ordering the psychiatric examination.

494.3.9.1(1) Employee Objection/Refusal to a Psychiatric Examination

If the employee objects to the medical examiner named by HCTM/POD/ESB, the employee is asked to submit the names of three to five board certified psychiatrists to who are willing to report. HCTM/POD/ESB then selects a medical examiner from the list and arranges an examination.

- a) All available information pertinent to the possible health problem of the employee is presented to the medical examiner to serve as background for the examination. HCTM/POD/ESB makes a full report of the medical evidence in the file including a copy of the reported behavior irregularities or manifestations of unsatisfactory service available only to a licensed physician, designated in writing for that purpose by the employee or the representative; and
- b) If the employee refuses to cooperate altogether, HCTM/POD/ESB must document all instances of alleged behavior deficiencies on which the decision to order a psychiatric examination was based. This lay evidence must serve as the

basis for USAID to file an application for disability retirement in the case of an emotionally disturbed employee.

494.3.9.1(2) Pending a Decision - Employee Status

The employee remains in an active duty status pending decision of the USAID application for disability retirement, except that HCTM/POD/ESB may place an employee on leave with consent or without consent when the circumstances are such that retention in an active duty status may result in damage to Government property; may be detrimental to the interests of the Government; or injurious to the employee, fellow workers, or the general public. If the leave account of the employee is or becomes exhausted, any suspension or involuntary leave without pay is effected in accordance with law and regulation.

494.3.9.1(3) Tentative Determination

On the basis of all available evidence, HCTM/POD/ESB is required to decide whether deficiencies in the services of the employee are caused by illness or injury. If not, adverse action procedures may be instituted if warranted. If it is decided that the deficiencies in the service of the employee are established and are caused by disease or injury, HCTM/POD/ESB must notify the employee in writing of this tentative determination that all requirements to be retired on disability have been met.

If the employee answers the notice of tentative determination, all documentary evidence offered by the employee or representative must be received, considered, and included in the case file. An oral reply to the designated USAID official must be summarized in writing and included in the case file. An additional copy, approved or supplemented by the employee, must also be included in the case file. The employee may amend the employee copy of the summary or submit corrections or supplementation within five calendar days after receipt of the copy of the summary. The designated official may make or recommend the decision on whether to file an application for the employee's retirement on disability, subject to the following:

- a) No employee will be retired on disability when the application is filed by HCTM/POD/ESB without certification that there is no suitable position vacant for which the employee is qualified, and which the employee is willing to accept in lieu of retirement; and
- b) HCTM/POD/ESB records its opinion on whether the deficiencies in the employee's service are caused by disease or injury not due to vicious habits, or willful misconduct within the preceding five years and gives notice to the employee, in writing, informing the employee of statement of findings and conclusions, of decision on reassignment, or that disability retirement application has been filed.

494.3.9.1(4) Right to an Examination Ruled by Office of Personnel Management (OPM)

If required procedures are not followed, the Office of Personnel Management may return the file to HCTM/POD/ESB and the employee is informed if the case is returned for this reason. Otherwise, the Office of Personnel Management notifies the employee and HCTM/POD/ESB of receipt of the application. This notice also informs the employee of the right to an examination without cost, right to submit medical or lay evidence of medical condition or job performance, and if required, the necessity of an examination to obtain further evidence.

The necessity of an examination is to obtain further evidence. If the employee refuses to report for an examination and the evidence on file is not sufficient for a decision, the case may be returned for such action as circumstances warrant.

494.3.9.2 Final Ruling by The Office of Personnel (OPM)

When all evidence is evaluated, the Office of Personnel Management makes its decision and notifies both the employee and the Agency. The party adversely affected may appeal within 15 days and may request a hearing. The notice of decision gives full instructions on how to appeal the decision and to request a hearing; and

The Office of Personnel Management must notify HCTM/POD/ESB and the employee of the decision to allow or deny the disability application.

494.3.10 Deferred Annuity Processing

A separated employee who is eligible for a deferred annuity must file an Application for Deferred Retirement (OPM Form 1496) three months before attaining the age of 62. The form must be forwarded to OPM, Retirement Operations Center, P.O. Box 45, Boyers, Pennsylvania 16017-0045.

494.3.11 Refunds

Regardless of length of service, an employee who is separated, or transferred to a position that is not under the Civil Service System or Federal Employees Retirement System may receive a refund of retirement deduction.

Conditions for a refund:

- a) Separation or transfer occurs and application for refund is filed at least 31 days before the commencing date of any annuity for which eligible;

- b) The employee is not currently employed in a position subject to the civil service deductions or will not be so employed within 31 days from the date of separation on which claim for refund is based; and
- c) The receipt of the lump-sum credit voids all annuity rights unless the person is later reemployed in a position subject to the retirement system. The services covered by the refund cannot be credited for annuity computation purposes until redeposit is made. It may be to the person's advantage to leave the lump-sum credit in the retirement fund. There is no advantage to doing so for an employee who has less than five years of creditable service if there is no contemplated return to Federal service. If, however, the employee has a title to a deferred annuity at age 62, the value of the deferred annuity in most cases exceeds the amount of the lump-sum credit, and upon attaining age 62 and filing for retirement annuity, a survivor-type annuity may be elected. Leaving the lump-sum credit in the retirement fund does not preclude a refund at a later date provided application is filed with the U.S. Office of Personnel Management at least 31 days before the commencing date of an annuity. If the former employee dies before attaining age 62, the lump sum is payable as a death benefit.

494.3.12 Appeal

An appeal may be made to the Office of Personnel Management from any final action of the Bureau of Retirement, Insurance, and Occupational Health affecting the rights or interests of any person or agency under the law. The appeal must be filed by a claimant or a designated representative.

Filing an Appeal

- a) An employee or the Agency may request the Director, Bureau of Retirement, Insurance, and Occupational Health, to reconsider the decision on an application for disability retirement. The request for reconsideration must be submitted within 15 days of receipt of the notice of decision.
- b) The Director, Bureau of Retirement, Insurance, and Occupational Health, will review the file, including any additional material submitted, and, if necessary, arrange for a new medical examination, and allow or disallow the application. The employee or the Agency then may appeal this decision to the Federal Employee Appeals Authority (FEAA). The appeal must be submitted within 15 days of receipt of the decision on the request for reconsideration.

Upon receipt of an appeal, the FEAA will review the case and schedule a hearing, if desired by the appellant. When there is a conflict in medical

opinions, the FEAA may send the available medical evidence to an impartial medical consultant. When the evidence is complete, a decision is rendered.

494.3.12.1 Appeals for Other Types of Retirement

- 1) Appeals of any final action of the Bureau of Retirement, Insurance and Occupational Health, affecting the rights or interests of any person or agency under the law must be filed directly with the Appeals Review Board, Office of Personnel Management, Washington, D.C. 20415. The appeal must contain the name and address of the appellant, claim number, the date and substance of the action from which the appeal is taken, full reasons for the appeal, and any documentary evidence in support thereof. Except as discussed below, an appeal must be filed within six months from the date the Office of Personnel Management mailed notice of its final action.
- 2) When an application for annuity is denied because of offenses barring annuity payments, the claimant must file an appeal within 30 calendar days from the date of the initial decision after hearing, or after decision without a hearing by the Bureau of Retirement, Insurance and Occupational Health.

494.3.13 Election of Type of Annuity

The election of the type of annuity desired is indicated by the retiring employee on the retirement application at the time of retirement. If an application for disability of an employee is filed by the HCTM/POD/ESB, the election of the type of annuity is not completed.

494.3.14 Annuities with Survivor Benefits

For a married employee, the Annuity with Survivor Benefit to Widow or Widower is automatic unless the employee and the spouse request, in writing, an annuity without any survivor benefit. The possible survivor benefit for a former spouse is treated in the subsection below.

If a married employee and spouse, when retiring, elect an annuity without survivor benefits, or a reduced annuity with survivor benefits based on less than all of the employee's annuity, the employee must provide the Office of Personnel Management with either:

- a) The spouse's signed and notarized declaration consenting to the loss of or reduction in survivor benefits (OPM form 1431);
- b) A request for an Office of Human Capital and Talent Management waiver of the consent requirement; or

- c) OPM will waive the current requirement if the spouse's whereabouts are unknown or a court finds consent inappropriate.

An annuity with survivor benefits provides annuity payments at a reduced rate during the life of the employee who is retiring; and, upon death, a survivor annuity payable to the wife or husband to whom the employee was married at the time of death.

This reduction in the retiring employee's annuity is two percent of any amount up to the \$3600 specified as a base for the survivor benefits, plus 10 percent of any amount over \$3600 that is so specified. The survivor annuity is 55 percent of the retiring employee's annuity, or whatever portion thereof is specified as a base for the benefit.

Married Duration Requirement: In order to be entitled to a survivor annuity, a widow(er) who married the employee or annuitant after November 7, 1984, must have been married to the employee or annuitant for at least nine months or be the natural parent of the employee's child. The previous marriage duration requirement was one year. The current nine-month requirement does not apply in cases of accidental death. If the widow or widower was married more than once to the same employee or annuitant, all periods of marriage are counted.

494.3.15 Annuities Without Survivor Benefits

An annuity without Survivor Benefit is available to all retiring employees (if the current spouse consents in writing). It provides annuity payments during the life of the retiring employee only. A married employee who retires after May 6, 1985, and does not elect a survivor annuity for a current spouse, may elect a survivor annuity for a subsequent spouse acquired after retirement. (This election cannot be made if the annuitant remarried the same spouse at the time of retirement).

A reduction in annuity is required retroactive to the date of retirement in this case as with other post-retirement elections.

494.3.16 Annuities with Survivor Benefits to Named Person Having Insurable Interest

An Annuity with a Survivor Benefit to a named person having an Insurable Interest is available only to employees who are retiring in good health. It provides annuity payments, at a reduced rate, during the life of the retiring employee; and, upon the death of the employee, an annuity payable to the person designated. The person designated must have an insurable interest, which is presumed to exist if the person named has a reasonable expectancy of pecuniary benefit in the continuance of the life of the employee.

Previously, a married employee could not elect an "insurable interest" annuity. After May 6, 1985, a married or unmarried employee may elect an "insurable interest" annuity, naming any eligible individual. However, a married employee may elect an

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insurable interest annuity for a current spouse only if the spouse consents to waive the current spouse survivor annuity.

An insurable interest annuity election is automatically voided if the retired employee (whether married or unmarried at retirement) marries the insurable interest designee after retirement, and elects a survivor annuity for that person. If the insurable interest designee was someone other than the new spouse, the employee may elect to void the insurable interest election upon deciding to provide a survivor annuity for the new spouse.

The percentage of reduction is applicable to the entire life annuity of the retiring employee and depends upon the difference in ages of the retiring employee and the person named. The survivor's annuity is 55 percent of the retired employee's reduced annuity.

494.3.17 Survivor Benefits to Former Spouses

The Agency shall adhere to the Federal Employees Benefits Improvement Act of 1986, PL 99-251, of February 27, 1986, amended the provisions of the Civil Service Retirement Spouse Equity Act of 1984 to include:

494.3.17.1 Court-Awarded Survivor Benefits Survivor Benefits to Former Spouses

Employees are required at the time of retirement to provide any potential survivor annuity for a former spouse required by a qualifying decree of divorce or annulment, if the marriage ended after May 6, 1985. The employee's annuity is reduced to provide the benefit ordered by the court. However, the former spouse's benefit cannot exceed 55 percent of the employee's unreduced annuity.

494.3.17.2 Election of Former Spouse Annuity

1) At the time of retirement, an employee may elect a full or partial survivor annuity for a former spouse (regardless of the date the marriage was dissolved). If the court has already awarded a partial survivor annuity to that former spouse, the employee may elect to provide an additional amount. If the employee is married, the current spouse's consent is necessary.

2) An annuitant who retires after May 6, 1985, and later divorces, may elect:

a) To continue the reduction in the annuity to provide a survivor annuity for the former spouse to whom the employee was married at retirement. This election must be made within two years of the divorce, and the reduction percentage cannot exceed the one elected at retirement.

- b) To provide a survivor annuity for a former spouse to whom the employee was married after retirement, whether or not survivor annuity was elected after the marriage.
- c) Death in Service:
 - 1) A survivor annuity is payable to a former spouse of an employee who dies in service after May 6, 1985, if the former spouse was awarded a survivor annuity by a court order or decree; but only if the marriage ended after May 6, 1985. The former spouse may receive all or any portion of the survivor annuity as the court directs. Any remainder will be paid to an eligible widow(er); and
 - 2) When an eligible former spouse dies or remarries before age 55, the widow(er), if otherwise eligible, will receive the full survivor annuity unless there is another former spouse who was awarded a survivor annuity by court order or decree before the employee's death.

494.3.18 Death Benefits

There are two types of death benefits available to survivors and beneficiaries, survivor annuity and lump-sum payment. (Refer to section **494.3.28**).

- a) Survivor annuities may be payable upon the death of an employee to the spouse and children.
- b) A lump-sum benefit may be payable upon the death of an employee if there is no spouse or children entitled to survivor annuity or, if a survivor annuity is payable, after the right of the last person entitled has terminated.

494.3.18.1 Death Benefits - Civil Service Retirement System (CSRS)

Survivor Annuity Upon Death of Employee: To qualify a spouse or dependent children, or both, for a survivor annuity, an employee must have:

- 1) Completed at least 18 months of civilian service; and
- 2) Died while employed in a position subject to the retirement system.

To qualify for a survivor annuity: a deceased employee's:

- 1) Spouse must have been married to the employee for a total of at least nine months before the employee's death; or, if married less than nine months, be the parent of a child born to the marriage (the nine-month requirement need not be met if death was accidental); and

- 2) A dependent child or step-child of the deceased employee must be unmarried and under the age of 18. However, an unmarried dependent child who is 18 or over and is incapable of self-support because of a physical or mental disability which began before age 18, or an unmarried dependent child who is a full-time student ages 18 through 22 at an accredited university is also eligible.

Amounts of Survivor Annuity Upon Death of Employee. A surviving spouse receives 55 percent of the yearly annuity which the deceased employee would have earned if the employee's retirement began on the date of death.

The earned annuity of the deceased employee is computed in the same manner as if the employee had retired, but without reduction for being under age 55, as well as without any increase for voluntary contributions. If the employee's civilian service totals at least 18 months but less than three years, the survivor annuity is computed on the average pay over the total civilian service; however, the law guarantees a minimum annuity of 55 percent of the deceased employee's high-3 average pay, or the regular annuity obtained after increasing the deceased employee's service by the period of time between the date of death and the date the employee would have retired.

The guaranteed minimum does not apply if 55 percent of the employee's earned annuity produces a higher benefit than the guaranteed minimum. Also, since active service cannot be projected beyond age 60 in any case, the guaranteed minimum is not operative in cases where the employee dies after reaching age 60.

When an employee is survived by a spouse or former spouse who is the parent of the employee's child, then the yearly survivor annuity payable to that child is whichever of the following amounts is less:

- 1) 60 percent of the employee's high-3 average pay divided by the number of eligible children;
- 2) \$951 per month divided by the number of eligible children; or
- 3) \$325 per month per child.

If the employee is not survived by a spouse or former spouse who is the parent of a child of the employee, that child is entitled to the lesser of:

- 1) 75 percent of the employee's high-3 average pay divided by the number of eligible children;
- 2) \$1,146 per month divided by the number of eligible children; or
- 3) \$392 per month per child.

The dollar amounts above will be adjusted based on cost of living increases.

When a surviving spouse or former spouse dies before the benefit to a child is terminated, the annuity to that child is increased to the amount which would have been payable if the employee was not survived by that person. This is true even though the spouse or former spouse was not in receipt of a survivor annuity at the time of the surviving spouse's death. Similarly, upon termination (for any reason) of the annuity to a child, the annuities to any remaining child are recomputed as though the one child was never entitled to the benefit.

494.3.19 Health and Life Insurance

Life Insurance - Basic Life coverage (including all three Options, but not Accidental Death and Dismemberment coverage) may be continued when an employee retires:

- 1) If the employee retires on an immediate annuity; and
- 2) If the employee was insured for this same Basic Life, or "regular insurance" coverage for the entire period during which the coverage was available, or for the last five years immediately before the starting date of the annuity. The full amount of Basic Life insurance is continued until one's actual retirement date or age 65, whichever is later, and then is normally reduced by two percent per month until a 75 percent reduction of full coverage has been reached.

Regarding Health insurance, employees who were covered under the FEHBP may continue their coverage into retirement provided they were covered under FEHB for five years immediately prior to retirement. The government's contributions for health benefits are the same for retirees as these are for employees. Retirees have the same options under open seasons that active employees enjoy.

494.3.20 Applying for Retirement Annuity When Receiving Compensation for Work Injuries

Even though the employee elects to receive compensation for work injuries, the employee also must apply for an annuity upon separation. The annuity payment is suspended during the period the employee is receiving workmen's compensation. Only if the employee applies and elects a survivor type annuity can the annuity provide the continuity of survivorship protection otherwise available under the retirement system. The employee also protects annuity rights compensation for work injuries be discontinued. If the employee desires to apply for a refund they may do so; however, the employee forfeits any right to the annuity.

494.3.21 Recognition at Time of Retirement

A retirement plaque shall be presented to each retiring employee in the presence of suitable ranking staff and the retiring employee's colleagues. The plaques are requisitioned from HCTM/POD/ESB. The name of the retiring employee, retirement date, and length of service, computed to the closest year by HCTM/POD/ESB for direct hire employees and the Mission Executive Officer for Foreign Service National employees be provided. The Mission submits the requisition for the plaque at the time the Application for Retirement (SF 2801) is pouched to USAID/W. The requisition clearly indicate whether or not the plaque is to be returned to the Mission for presentation or mailed directly to the employee's separation residence.

494.3.22 Federal Employees Retirement System (FERS)

FERS was established in Public Law 99-335 on June 6, 1986, following the enactment of PL 98-21 which required that all federal employees hired after December 31, 1983, had to be covered by Social Security.

494.3.22.1 Components of FERS

1) Social Security

Social Security benefits are provided to employees and their dependents who qualify as beneficiaries under the Old-Age Survivors and Disability Insurance (OASDI) program. OASDI provides:

- 1) Monthly benefits if the employee is retired and is at least 62 years of age, as well as, monthly benefits during retirement for spouse and eligible dependents;
- 2) Disability benefits;
- 3) Survivor benefits; and
- 4) Lump-sum death benefits.

In order to qualify for Social Security retirement benefits, the employee must have 40 quarters of Social Security-covered employment. The amount of the monthly benefits is based on a number of factors, including average earnings, family composition and the Consumer Price Index.

2) Basic Annuity

In order to be eligible for a vested annuity from the Basic Annuity Plan under FERS, employees must have at least five years of creditable civilian service and be subject to FERS at the time of their retirement. Survivor and disability benefits are available after

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18 months of service. Creditable service generally includes service for which contributions have been made or deposited, including the interim period (January 1, 1984, through December 31, 1986) during which 1.3 percent of pay was contributed by the employee; it also includes post-1956 military service, subject to a deposit of three percent of basic pay.

With certain exceptions, employees cannot receive credit for military service if also receiving military retired pay. Leaves of absence for performing military service, or while receiving workers' compensation, are considered creditable service.

Unused sick leave is not converted into creditable service under FERS (except for CSRS employees who transferred to FERS with at least five years of CSRS).

3) Thrift Savings Plan

A significant feature of the FERS program is the opportunity for employees to participate in the Thrift Savings Plan (TSP). This is a voluntary, optional, defined contribution plan that permits FERS employees to contribute up to 10 percent of their salary to a tax-deferred savings plan. The government automatically contributes to the employee's account an amount equal to one percent of basic pay, and, if the employee contributes, the government matches the contribution up to a maximum of four percent of the employee's salary to the plan. (CSRS-covered employees may also participate in the TSP, but their participation is limited to five percent of salary and no government contribution is made.)

Retirement income received from the TSP depends on how much was contributed to an employee's account during working years and on what the earnings of those contributions were. This component contrasts significantly with the fundamental nature of FERS and CSRS, which are benefit programs by definition, basically providing annuities based on years of service and salary.

For a summary of TSP changes along with other TSP issues, see Mandatory Reference [494maa, Thrift Savings Plan \(TSP\) Changes](#).

494.3.23 Eligibility Requirements (FERS)

Refer to Section 494.3.1.

494.3.24 Retirement Formula

Generally, the basic annuity component of FERS is one percent of the employee's "high-3" years average pay, multiplied by years of service. If the employee retires at age 62, or later, with at least 20 years of service, a factor of 1.1 percent is used rather than one percent.

Part-time employees have their FERS annuities calculated on the average "high-3" consecutive years of pay based on the full-time rate of part-time service after December 31, 1983. The benefit, based upon the full-time rate, is reduced according to the part-time schedule.

494.3.25 Survivor Reductions

For current and former spouses, there are reductions in survivor benefits, as follows:

a) For current and former spouses: A married employee's annuity is automatically reduced by 10 percent, unless the employee and spouse jointly elect a five percent reduction or waive survivor benefits at retirement. The same exceptions to the joint waiver requirement as are in CSRS are included. A waiver may be revoked within the first 18 months after retirement.

In the event of a post-retirement marriage, the retiree has two years after the marriage, or two years after the death or remarriage of a qualified former spouse, to elect survivor benefits for the new spouse. Deposits are no longer made in this case, as described below; instead the annuity is actuarially reduced. This election of survivor benefits voids a previous insurable interest election for the same person; otherwise, at the time of the election, the retiree must inform OPM in writing of the desire to terminate a previous insurable interest election.

b) For former spouse. A retiree's annuity is reduced to provide a survivor benefit for a former spouse pursuant to a court order or to an election by the retiree at retirement; or, if later, within two years after divorce or annulment. This reduction is 10 percent, or an appropriate amount determined under Office of Personnel Management (OPM) regulations if less than a full survivor annuity is provided.

c) Actuarial reduction instead of deposits: As provided by PL 103-66 and effective October 1, 1993, retirees who marry after retirement and elect survivor benefits will have their annuities reduced by a permanent actuarial reduction. A deposit of the monies which would have been withheld from the annuity had the election been in effect from the date of retirement is no longer collected. This actuarial reduction for the survivor deposit is in addition to the regular survivor reduction.

d) Insurable interest: Reductions can also be elected by a retiring employee who is in good health in order to provide a survivor benefit for a person having an insurable interest in the employee. A married employee, however, can elect such an annuity for the employee's current spouse only after waiving the normal survivor annuity. The reduction is 10 percent plus 5 percent for each five years by which the beneficiary is younger than the retiree, subject to a maximum reduction of 40 percent.

Survivor reductions terminate on loss of entitlement by the survivor or survivors.

494.3.26 Special Retirement Supplement

A special retirement supplement designed to approximate the retiree's eventual Social Security benefits provided to compensate the retiree for any lack of Social Security benefits for those retiring prior to reaching the age of 62. Retirees may be eligible for the supplement if retired after the minimum retirement age with 30 years of service, at age 60 with 20 years of service, or upon involuntary retirement. Law enforcement officers and fire-fighters who retire at age 50 with 20 years of service or at any age with 25 years of service are also eligible for the supplement.

This supplement is also payable, after attainment of the minimum retirement age, to discontinued service and involuntary retirees as well as to members of the Senior Executive Service who are removed from SES status and who retire at the age of 50 with 20 years of service or at any age with 25 years of service.

The supplement is not payable to employees who are not eligible for an immediate annuity. It is also subject to an earnings test, similar to the test used for Social Security below the age of 65, reducing the supplement by half of the retiree's earned income above an annual exempt amount.

494.3.27 Windfall Elimination Provision

Employees who have an earned Social Security benefit as well as an earned federal annuity are also subject to the "Windfall Elimination Provision". The purpose of this provision is to reduce or eliminate any unintended advantage that the basic Social Security formula gives to workers who also have pensions from employment not covered by Social Security. The windfall elimination reduction formula eliminates the excess benefit provided to workers who spent only part of their careers in covered Social Security employment; it does this by using a less heavily weighted benefit formula to compute benefits.

For additional information contact the Office of Human Capital and Talent Management, Personnel Operations Division, Employee Services and Benefits Branch (HCTM/POD/ESB).

494.3.28 Survivor Benefits

Benefits may be paid to a spouse, former spouse, or children. Under FERS, a former spouse must have been married to an employee with at least 18 months of creditable (not necessarily covered) service under FERS. Payment may be made to the estate of a deceased employee or annuitant.

Survivor Benefits: The following are the survivor benefits under the FERS Basic Annuity Plan, as applicable:

Death of Retiree: The widow or widower receives either 50 or 25 percent of the retiree's unreduced annuity (depending upon the amount elected at retirement), unless joint waiver of survivor benefits was filed at the time of retirement or no survivor benefit was elected in the case of a post-retirement marriage.

Death of Employee: If the employee had at least 18 months of creditable civilian service and was either:

- a) Married to the surviving spouse for at least nine months;
- b) The parent of a child of the marriage; or
- c) The death was accidental, the widow or widower receives:
 - 1) A lump-sum equal to 50 percent of the employee's final pay (or average pay, if higher), plus \$15,000 (to be increased by annual Cost of Living Allowances (COLAs); and
 - 2) If the employee had at least 10 years of creditable service, an annuity equal to 50 percent of the basic annuity that would have been payable to the employee without any reduction for age.

The survivor may elect to receive the amount in clause (a) above as a lump sum; or in monthly payments over three years.

Death of former employee with title to deferred annuity: If married to the employee on the date of separation, the widow(er) is entitled to:

- a) An annuity equal to 50 percent of the annuity that would have been payable to the decedent, assuming that the latter had attained the minimum retirement age, provided also that the employee had performed at least 10 years of service; or
- b) A refund of the former employee's retirement contributions, with interest, if no one else is entitled to the refund.

The survivor may choose to have the survivor annuity begin on the day the deceased former employee becomes eligible for an unreduced annuity (i.e., the decedent's 62nd birthday with less than 20 years of service, 60th birthday with 20 or more years of service, or the birthday when the decedent reached Minimum Retirement Age with 30 years of service); or, if the survivor so elects, the day after the former employee's

death must be actuarially equivalent to the annuity that was to begin on the day after the former employee's 62nd birthday.

Death of a disability retiree before age 62: The widow(er) receives 50 percent of the benefit the retiree was entitled to if the retiree was age 62 at the time of death. For purposes of computing the decedent's pre-determined annuity, creditable service is increased by the period between the date of death and the decedent's 62nd birthday, and average pay also is adjusted by COLAs effective through the date of death.

A widow(er)'s benefit is reduced by the amount of any survivor benefits payable to any former spouse(s) of the decedent.

Supplementary Annuity: A widow(er) of a deceased retiree is also entitled to a supplementary annuity payable until age 60, equal to the lesser of:

- a) The excess of the CSRS survivor benefits that are payable to the survivor if the latter were entitled to a CSRS survivor annuity, over the basic survivor benefit payable under FERS; or
- b) The Social Security survivor benefit that was payable as of the date the decedent died, assuming the survivor was then age 60.

The supplementary annuity is payable only if the widow(er) is entitled to a Social Security survivor benefit at age 60.

The supplementary annuity is not payable if the widow(er) is entitled to Social Security survivor benefits before age 60 because he or she is disabled or is caring for a child of the deceased employee or retiree.

The supplementary annuity is increased by annual COLAs, just as the basic survivor annuity is.

Former spouse benefits under the Basic Annuity Plan: A former spouse may receive survivor benefits to the extent provided in an election by the retired employee or qualified court order.

Court orders are honored in the case of a former employee with title to a deferred annuity who dies before applying for an annuity. A court order is not honored if it conflicts with an earlier joint waiver with respect to the former spouse.

A former spouse's survivor benefit must not exceed the difference between the sum of 50 percent of the decedent's annuity and any survivor supplement payable, and the survivor benefit payable to any other former spouse of the decedent.

The lump sum payable to a deceased employee's widow(er) shall be paid to a former spouse in lieu of a subsequent current spouse if this is expressly provided in a court order.

Termination: Survivor annuities under the Basic Annuity Plan paid to widow(er) and former spouse terminate upon remarriage before age 55.

Children's Annuities. Children's benefits are reduced by the total amount of any Social Security survivor benefit payable to all children based on the Social Security Act (SSA) earnings of the deceased employee or retiree. The assumed CSRS benefit is increased by COLAs and the child's Social Security benefit includes COLAs payable under the SSA.

Insurable Interest Annuity: An insurable interest annuity under the basic plan equals 55 percent of the retirees reduced annuity and is payable to the person designated by the retiree.

Spouse Notice or Waiver Requirement: To withdraw their Thrift Savings Plan (TSP) account balances, married participants must meet the spouse waiver or notification requirements described below. (There is no longer any requirement to notify former spouses; this now applies only to participants who separate without eligibility for retirement benefits.) The waiver or notification requirements are:

- 1) FERS participants. To make a withdrawal election other than a joint life annuity (with level payments, 50 percent survivor annuity, and no cash refund feature), both the participant and the spouse must sign a joint waiver of this annuity right; and.
- 2) CSRS participants. A participant's withdrawal election is effective only when the spouse was notified that the election been was made.

Spouse Notification: Spouse notice or waiver of annuity requirements described above are not required for disbursement of TSP accounts that are \$3,500 or less.

Divorce decrees and other court orders are honored to the extent that these expressly relate to an employee's Thrift Savings Account, unless a joint waiver was executed earlier by the employee and the former spouse.

494.3.29 Disability Benefits

Eligibility:

The employee must have 18 months of civilian service; the employee must have become disabled for useful and efficient service in the last federal position occupied; and, the employee must not have declined a reasonable offer of a vacant position within the same agency and commuting area, at the same grade or pay level as the most recent position.

Computation:

For the first year: 60 percent of "high-3" average pay minus any Social Security disability benefit the annuitant is entitled to receive.

If the annuitant becomes entitled to Social Security disability benefits after becoming entitled to FERS disability benefits, the FERS disability annuity is offset by either 100 percent or 60 percent of the Social Security disability benefit from the effective date of entitlement to Social Security benefits, increased by any COLAs paid to FERS annuitants after the effective date of Social Security benefits.

After the first year: This amounts to 40 percent of the "high-3" average pay, minus 60 percent of any Social Security disability benefit the annuitant is entitled to receive.

Other conditions:

- 1) After the disability annuity is offset by any Social Security disability benefit, it must not be less than the annuity computed under the Basic Annuity Plan with respect to the employee;
- 2) No COLAs are payable during the first year;
- 3) At age 62, the annuity is recomputed as a non-disability annuity, including credit for the period of disability. The average pay period is increased by COLAs payable to FERS annuitants during the period when the disability benefit was being paid; and
- 4) If the employee becomes disabled after reaching the age and service requirements for normal retirement (except the minimum retirement age/10 years of service option), or after reaching age 62, the annuity is computed as a regular, non-disability annuity.

Provisions regarding applications, medical examinations, and recovery or restoration of earning capacity are essentially the same as under CSRS.

494.3.30 General Provisions Regarding FERS Benefits

Court Orders. Payments under FERS that are otherwise made to an annuitant or a widow/widower are paid to a former spouse of the annuitant under the terms of a court order of divorce, annulment, or legal separation.

Reemployed Annuitant: The original FERS Act required an annuity to terminate when the retiree became re-employed in any government position. This provision was amended to parallel the CSRS provisions governing re-employment when a disability annuitant who OPM found recovered from disability, or restored to earning capacity, is reemployed while still entitled to a disability annuity, OPM discontinues the annuity effective on the date of re-employment. If the annuitant is not found recovered from disability or restored to earning capacity, the employing agency offsets the pay of the annuitant by the amount of annuity assignable to the period of re-employment.

Thus, in the case of a FERS annuitant re-employed on or after January 8, 1987, the annuitant's pay is reduced by the amount of annuity allocable to the period of re-employment. This procedure applies to all reemployed FERS annuitants except disability retirees who are found recovered, or whose earning capacity was restored. Retirement contributions are withheld from the annuitant's pay unless the individual is re-employed intermittently, or as a justice or judge, or is in a position subject to another retirement system for government employees.

If either the FERS annuitant or the CSRS annuitant who elected FERS performed the equivalent of at least one year of full-time service, this annuitant may receive a supplemental annuity based on the re-employment. If the re-employment equals at least five years of full-time service, the annuitant may elect to have the annuity recomputed in order to include credit for the re-employment.

Commencement and termination of annuities:

Annuities begin the day after separation for disability retirees, those involuntary separated, and those who are entitled to immediate annuities upon expiration of a term to which appointed or elected;

Otherwise, retirement benefits under the basic plan begin the first day of the first month after separation.

Basic annuity and disability benefits end on the day of death or other terminating event.

Provisions regarding waiver, allotment, and assignment of benefits, retirement applications, and appeals for reconsideration are the same as under CSRS.

Forms of Payment. FERS Basic Benefits are paid in the form of an annuity. An alternative annuity is available in case of critical medical need only.

494.3.31 Transfer of Civil Service Retirement System (CSRS) Employees to Federal Employee Retirement System (FERS)

Employee who transfer from CSRS to FERS may have three separate computations for non-disability retirement:

CSRS Benefit. This is based on the CSRS formula of 1.5 percent, 1.75 percent, and 2 percent of the "high-3" average salary for creditable service up to the date of transfer. Sick leave is creditable, but only the lesser of the amount on the date of transfer or retirement. Credit for CSRS service is frozen, but the combined CSRS and FERS annuity is based on the average of the highest three consecutive years of pay.

FERS Benefit. This is based on the FERS formula of 1 percent (1.1 percent if retiring at age 62 or later with at least 20 years of service) of the "high-3" average salary, using creditable service on and after the date of transfer. No sick leave accumulation is used in the computation.

Social Security Supplement. This is a supplement, which approximates the Social Security benefit earned while employed by the federal government if retired after the minimum retirement age with 30 years of service, or at age 60 with 20 years of service, or upon involuntary retirement.

An employee who transfers from CSRS receives disability and survivor benefits computed under FERS rules.

Transferring employees will receive a full CSRS COLA on any CSRS portion of their annuity. All service (CSRS or FERS) counts toward years needed to be eligible for retirement, disability, survivor, and Thrift Savings Plan benefits under FERS.

494.4 MANDATORY REFERENCES

494.4.1 External Mandatory References

- a. [5 USC 83](#)
- b. [5 USC 84](#)
- c. [Civil Service Reform Act of 1978, as amended](#)
- d. **Federal Personnel Manual, Section 830**
- e. [Public Law 99-335](#)

Text highlighted in yellow indicates that the adjacent material is new or substantively revised.

f. [Public Law 101-508](#)

g. [Title II, Social Security Act, as amended](#)

494.4.2 Internal Mandatory References

Effective Date: 02/10/2012

There are no Internal Mandatory References for this chapter.

494.5 ADDITIONAL HELP

Effective Date: 02/10/2012

There are no Additional Help documents for this chapter.

494.6 DEFINITIONS

The terms and definitions listed below have been incorporated into the ADS Glossary. See the [ADS Glossary](#) for all ADS terms and definitions.

Actuarial Reduction

The reduction applied to an annuity if a redeposit is owed and not repaid. The base for reduction is the numeric age factor multiplied by the amount owed. (**Chapter 494**)

Annuity

An annual sum payable to a former employee who has retired. (**Chapter 494**)

Deductions

The amounts withheld for retirement purposes from the basic pay of an employee subject to the retirement law. (**Chapter 494**)

Deferred Annuity

An annuity payable to a separated employee which is scheduled to begin when the separated employee reaches age 62. (**Chapter 494**)

Deposit

A sum of money paid into the fund by an employee or survivor to cover a period of service during which deductions were not withheld from pay. (**Chapter 494**)

Earned Annuity

An amount computed on the basis of the employee's actual service, unused sick leave, and high 3 average pay and, if required, reduced for retirement before age 55 and failure to make deposits or redeposits. (**Chapter 494**)

Former Spouse

One who had been married for at least nine months to an employee who has at least 18 months of service covered under the retirement law. (**Chapter 494**)

High-3 Average Salary

The highest annual rate resulting from averaging, over any period of three consecutive years of creditable service, an employee's rate of basic pay in effect during that period, with each rate weighted by the time it was in effect. (**Chapter 494**)

Minimum Retirement Age

The earliest age an employee covered under a retirement system may retire. (**Chapter 494**)

Redeposit

A sum of money paid into the Retirement Fund by an employee or survivor to cover a period of service during which deductions were withheld but later refunded. (**Chapter 494**)

Refund

The withdrawal by the employee from the Retirement Fund of deductions made from the employee's salary during periods of employment. (**Chapter 494**)

Survivor Annuitant

A person who is entitled to an annuity based on the service of a deceased employee or annuitant, and who has filed claim. (**Chapter 494**)

Survivor Annuity

The annual sum payable to a survivor annuitant. (**Chapter 494**)

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