

employee for promotion to a higher graded position or to a position that requires an academic degree.

(d) Agency heads must assess and maintain records on the effectiveness of training assignments under this section.

(e) On a periodic basis, OPM may request agency information on the use and effectiveness of training assignments under this section.

(f) The authority to authorize training for an employee to obtain an academic degree terminates June 14, 2004.

[FR Doc. 03-14971 Filed 6-10-03; 4:46 pm]

BILLING CODE 6325-38-P

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 831 and 842

RIN 3206-AJ82

Voluntary Early Retirement Under the Homeland Security Act of 2002

AGENCY: Office of Personnel Management.

ACTION: Interim rule with request for comments.

SUMMARY: The Office of Personnel Management (OPM) is issuing interim voluntary early retirement authority (VERA) regulations. These regulations implement the VERA provisions of the Homeland Security Act of 2002, which apply to most executive branch agencies. These interim regulations explain how an agency requests authority from OPM to offer voluntary early retirement to its employees.

DATES: These regulations are effective June 13, 2003. OPM will consider written comments if received no later than August 12, 2003.

ADDRESSES: Send written comments to Ellen E. Tunstall, Deputy Associate Director for Talent and Capacity Policy, Office of Personnel Management, Room 6500, 1900 E Street NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Charles W. Gray at 202-606-0960, FAX at 202-606-2329, TTY at 202-418-3134, or e-mail at cwgray@opm.gov.

SUPPLEMENTARY INFORMATION Section 1313(b) of the "Homeland Security Act of 2002" (Public Law 107-296, 116 Stat. 2135) provides agencies the option to offer voluntary early retirement when restructuring as well as when downsizing. Previously, voluntary early retirement was only available in downsizing situations.

Subsection 1313(b)(1) of Public Law 107-296 covers employees under the Civil Service Retirement System (CSRS),

and is codified in 5 U.S.C. 8336(d)(2). Section 831.114 is revised to implement the new voluntary early retirement provisions under CSRS.

Subsection 1313(b)(2) of Public Law 107-296 covers employees under the Federal Employees Retirement System (FERS), and is codified in 5 U.S.C. 8414(b)(1). Section 842.213 is revised to implement the new voluntary early retirement provisions under FERS.

The voluntary early retirement provisions are the same under CSRS and FERS. The revised regulations explain which employees are potentially eligible for voluntary early retirement, how an agency requests voluntary early retirement authority from OPM, and how the agency manages the voluntary early retirement authority after approval.

Under the interim regulations, an agency's human capital plan and/or voluntary separation incentive plan may be used to satisfy the requirements for requesting a voluntary early retirement authority if it contains the information required in the VERA regulations.

Waiver of Notice of Proposed Rulemaking and Delay in Effective Date

Pursuant to 5 U.S.C. 553(b)(3)(B), I find that good cause exists for waiving the general notice of proposed rulemaking. Also, pursuant to 5 U.S.C. 553(d)(3), I find that good cause exists to make this rule effective in less than 30 days.

OPM has already promulgated interim regulations regarding use of the Voluntary Separation Incentive Payment (VSIP) authority pursuant to Congressional mandate. While agencies may now receive OPM approval to use VSIP to reshape their workforces, they cannot use VERA for that purpose until these regulations are available. In this case, compliance with notice and comment procedures, as well as with the 30-day waiting period, would severely undercut the usefulness of the VSIP authority and would deny employees who have not attained full retirement eligibility the opportunity to be considered for VSIPs. The alternative to reshaping the workforce through voluntary measures such as early retirement is generally reduction in force—a tool that is disruptive and costly both to employees and agencies. The inability of agencies to offer this option to employees undermines the intent of Congress and the Administration in providing agencies with the ability to use both the VERA and VSIP flexibilities for workforce reshaping and impacts employee options for "soft landings."

This regulation is needed to allow agencies to immediately use the VERA flexibilities that Congress accorded to them in the Homeland Security Act (Act). Prior to the enactment of this Act, agencies could obtain from OPM the authority to offer individuals voluntary early retirement based on a need to downsize. Also, if they had their own VSIP law, they could offer VSIP to their employees on the same basis. In the Act, however, Congress introduced the ability to request authority from OPM to offer VERA or VSIP, or both, based on a need for workforce reshaping. This is a flexibility that Congress deemed necessary to ensure that agencies could accomplish their respective missions, which, in many cases, have changed significantly since September 11, 2001. The VERA flexibility is designed so that it may be used in tandem with the VSIP flexibility. In fact, the VSIP authority may be ineffective in some instances, or not fully effective, if there is not a corresponding VERA authority to allow employees to retire early.

Moreover, delaying the effective date for OPM's VERA regulations could lessen the usefulness of VSIPs for reshaping this year. The financial advantage of VSIP rapidly diminishes the later it is used in a fiscal year, because the cost of the VSIP payment and the payout for accrued leave is more likely to exceed the amount of the employee's salary for the remainder of the year. Congress's inclusion of the new VERA flexibilities in the Homeland Security Act indicates that it intended for agencies to use these flexibilities this year. Waiver of the requirements regarding notice, comment, and the effective date is necessary to ensure that Congress' intent is honored.

Finally, OPM will issue final regulations within 1 year of the publication of these interim regulations or these regulations will sunset.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it affects only certain Federal employees.

Executive Order 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

List of Subjects

5 CFR Part 831

Administrative practice and procedure, Alimony, Claims, Firefighters, Government employees,