

## CHAPTER 8

PAYROLL

0801 GENERAL. The Defense Finance and Accounting Service (DFAS) is responsible for developing a standard nonappropriated fund (NAF) payroll system which will provide NAF customers with quality service at low cost. On March 16, 1992, the Department of Defense (DoD) approved the selection of the Nonappropriated Fund Central Payroll System (NAFCPS) as the standard DoD payroll system for all NAF employees. Until NAFCPS is implemented, all NAF payroll offices should follow the procedures in the appropriate Service appendix. For policies and procedures not covered in this chapter, the basic policies in the DoD personnel rules and regulations should be followed.

080101 Standards. Comptroller General standards developed under the authority of 31 U.S.C. 3511 require that all Government organizations establish, evaluate, and maintain adequate systems of accounting and internal control. This requirement includes the responsibility to ensure that contractor (Government or private) operating a payroll system on behalf of an agency maintains adequate systems of accounting and internal controls.

080102 Payroll Objectives. In carrying out the responsibilities set forth in 080101, organizations must minimize the number of payroll systems in use, automate and standardize them to the extent feasible, and ensure that they meet the following objectives to facilitate adequate control over all phases of pay, leave, and allowances.

A. Prompt payment in the proper amount to all persons entitled to be paid, in compliance with applicable laws, regulations, and legal decisions.

B. Prompt accounting for and disposition of all authorized deductions from

gross pay.

C. Adequate control over retention and disposition of all payroll-related documents.

D. Prompt preparation of adequate and reliable payroll records. Individual pay records for all civilian and military personnel must be maintained to show gross compensation (including allowances) by type and amount, deductions (including allotments), by type and amount, and net pay for each pay period. As a part of the overall financial management system, these records must be maintained by calendar year, leave year, or fiscal year, as appropriate, to support:

1. Management purposes.
2. Planning, preparation, execution, and review of the budget.
3. Internal and external reporting requirements.

E. Effective communication between organizations and organization personnel on payroll matters.

F. Adequate control over all phases of pay, leave, and allowances.

G. Effective interaction of the payroll function with the general ledger, personnel, and cost accounting functions, with provision for reconciling common data elements among separate systems.

080103 Internal Control Standards. A key to effective payroll operations is the maintenance of internal controls over those operations. Internal control standards to be followed are in Chapter 9 of this volume. All DoD NAF organizations must ensure that these standards

are followed through the plan of organization relating to payroll operations as well as through the methods and procedures adopted for processing and auditing their payrolls.

0802 EMPLOYMENT CLASSIFICATION OF PERSONS PROVIDING SERVICES.

Although workers may be called contractors for personal services, for tax purposes they are employees and should have Federal income tax and Social Security taxes withheld from their wages. Even though an individual or position may not be classified as an employee under other DoD regulations, the position incumbent is still an employee for whom the NAFI has a responsibility to withhold Federal income tax and FICA taxes.

080201 Personal Services Contracts. After giving full consideration to the common law factors and when it is determined that the contemplated service contract establishes an employer-employee relationship with the worker, then a personal services contract (PSC) could be used; and, it should include the following or similar statement:

"As an employee for purposes of the Internal Revenue Code [26 USC 3121(d)(2) and 26 USC 3401(c)], the Contractor is subject to withholding for both FICA and Federal income tax."

080202 Each NAFI or MWR activity should be directed to administer, pay, and report for payroll purposes all amounts paid consistent with the provisions of the PSC agreement or arrangement.

080203 Definitions.

A. Employee. The term "employee" means any individual who, under the usual common law rules or factors applicable in determining the employer/employee relationship has the status of employee. A worker is an employee under the usual common law rules if the relationship between him and the person for whom he performs services is the legal relationship exists when the person for whom services are performed has the right to

direct and control the person who performs the services, not only as to the result to be accomplished by the work but also as to the details and means by which the result is accomplished. That is, an employee is subject to the will and control of the employer not only as to what shall be done but how it shall be done. In this connection, it is not necessary that the employer actually direct or control the manner in which the services are performed; it is sufficient if he has the right to do so. The right to discharge is also an important factor indicating that the person possessing that right is an employer.

B. Employment. IRC Section 3121(b) defines "employment" as any service, of whatever nature, performed by an employee for the person employing him, irrespective of the citizenship or residence of either. In addition to service within the United States, this definition also applies to service outside the United States by a citizen or resident of the United States as an employee of an American employer. An American employer as defined in IRC Section 3121(h) and includes, among others, the United States or any instrumentality thereof.

1. Prior to January 1, 1984, service performed in the employment of the United States that was covered by a retirement system established by a law of the United States was excepted from the definition of employment and therefore was not subject to the tax under the Federal Old Age, Survivors and Disability Insurance System. Section 101.(a)(1) of the Social Security Amendments of 1983 amended IRC Section 3121(b) to remove this exception. Therefore, service performed in the employ of the United States by individuals hired after December 31, 1983, is not exempt from the Federal Old Age, Survivors Disability Insurance System. The exemption was not removed for employees engaged in employment before that date and for employees who had left such employment and after being separated therefrom, regardless of whether the period of separation began before, on, or after December 31, 1983, if the period of such separation does not exceed 365 consecutive days. Those employees are subject only to the hospital insurance portion of FICA taxes [See IRC Section

3121(u)].

2. Subsection (6) of Section 3306(c) excepts from the definition of employment, service performed in the employ of the United States Government or of an instrumentality of the United States which is wholly or partially owned by the United States. This exception was not affected by the Social Security Amendments of 1983. Therefore, wages of employees of the United States Government or instrumentalities of the United States are not subject to the FUTA tax.

C. Wages. According to Treasury Regulations, the name by which the remuneration is designated is immaterial. Thus, salaries, fees, bonuses, and commissions on sales or on insurance premiums, are wages paid as compensation for employment. The basis upon which the remuneration is paid is also immaterial in determining whether the remuneration constitutes wages. Thus, wages may be paid on the basis of piecework, or a percentage of profit and may be paid hourly, daily, weekly, bi-weekly, monthly, or annually. Wages, under IRC Section 3401(A) relating to withholding of income tax at the source of payment, means all remuneration for services performed by an employee for his employer, including the cash value of all remuneration paid in any other than cash form.

1. There are no provisions in the Collection of Income Tax at Source on Wages that are analogous to Section 3122 of the FICA. Therefore, a determination under Section 3122 of the FICA does not have any effect with respect to the application of the income tax withholding provisions.

2. Remuneration of a civilian employee in the employ of the United States or an instrumentality of the United States is wages subject to the Collection of Income Tax at Source on Wages.

080204 Other Factors. Other factors characteristic of an employer, but not necessarily present in every case, are the furnishing of tools and the furnishing of a place to work, to the

individual who performs the services. In general, if an individual is subject to the control or direction of another merely as the result to be accomplished by the work and not as to the means and methods for accomplishing the result, he is an independent contractor. An individual performing services as an independent contractor is not, as to such services, an employee under the usual common law rules. Whether the relationship of employer and employee exists under the usual common law rules will, in doubtful cases, be determined upon an examination of the particular facts of each case.

080205 The employment tax regulations provide, "If the relationship of employer and employee exists, the designation or description of the relationship by the parties as anything other than that of employer and employee is immaterial. Thus, if such relationship exists, it is of no consequence that the employee is designated as a partner, agent, independent contractor or the like." In summary, when determining the existence of a common law employer/employee relationship, the crucial test lies in the right of control, or lack of it, which the employer may exercise respecting the manner in which the service is to be performed and the means to be employed in its accomplishment, as well as the result to be obtained.

0803 IRS REQUIREMENTS. Accounting technicians, contracting officials, and responsible activity operating managers should be aware of the requirements under IRC Section 6041 and the importance of preparing and issuing the Forms 1096 and 1099-MISC correctly and filing them timely. [Note: The Form 1096 is required to transmit the Forms 1099 which must be issued to individuals who received payments of \$600 or more.]

080301 Form W-4. Periodic instruction should be given by DoD components to paying offices about the requirements for Forms W-4. NAF instrumentalities should be instructed as to the provisions for employment tax reporting. Treasury Publication 15, the Employer's Tax Guide, is a reliable source of information about this and other requirements for reporting to the

IRS.

080302 Overseas Requirements. Overseas activities should consider requesting an IRS Revenue Service Representative (see appendix for the nearest, applicable office) to conduct workshops for operating personnel.

080303 Desk Procedures. The use of desk procedures and checklists may be helpful to new employees--especially to the payroll clerks. High turnover rate experienced in many job categories (especially the clerical positions) contributes to poor or irregular compliance with the myriad of compliance rules and procedures.

080304 Form W-2G. NAF accounting personnel should be aware of IRS regulations and proper reporting procedures for reporting winnings from gambling activities on Form W-2G.

080305 Form 1099-MISC. Each DoD accounting office will adopt and use a consistent, standardized accounting method for tabulating, recording, and reporting of bingo and slot machine winnings at military units or on military posts/bases. Each accounting office will develop and promulgate a usable accounting sub-system for its activities for the collection and recording of payments to contractors and the preparation of Form 1099-MISC.

080306 IRS Resource. Accounting offices, in particular, and any other activity should be aware of the assistance available and offered by Revenue Service Representative; and, accounting offices are encouraged to use this IRS resource.

080307 Retaining and Storing Records. Accounting and payroll offices will retain records for a period of 4 years so as to be consistent with section 31.6001-19d (2) of the Treasury Regulations; and each accounting office should to adhere to a systematic storage method to facilitate retrieval of tax-related documents. After 4 years, individual payroll records are to be transferred to the National Personnel Records Center, St. Louis, MO for retention for an additional 56 years.

080308 Employee Status. Although NAF

employees are not employees of the Federal Government for some purposes, they are employees of a federal instrumentality and therefore are considered employees of the federal government for tax purposes.

080309 Depositing Payroll Taxes. Irrespective of the current IRS policy regarding the assertion of penalties, U.S. Government agencies are not exempt from the requirements for making Federal tax deposits. All DoD NAF payroll activities must adhere to the IRS employment tax deposit and reporting requirements. These procedures should then be emphasized to each financial officer to inform and provide specific, applicable instructions (especially in overseas areas) for withholding the tax and making the deposits. IRS Publication 15, Employer's Tax Guide (Circular E) is also recommended for review by financial officers annually. DFAS will periodically review payroll office operations to determine if Federal Tax deposits are timely and in accordance with IRS procedures and guidelines.

080310 Employer Identification Numbers. Each DoD NAF payroll activity will use only one Employer Identification Number (EIN).

0804 COMMON LAW FACTORS. Listed below are the twenty common law factors that have been developed for use by DoD NAF payroll offices (and other organizations that pay contractor wages) in the determination of the employer/employee relationship as required by IRC Section 3121(d)(2), and identified in 0803 and 0804. All factors are not always present in every case, and the degree of importance of each factor may vary depending on the occupation and the reason for its existence. These factors were published by the IRS in Revenue Ruling 87-41, 1987-1, C.B. 296.

080401 Instructions. A worker who is required to comply with other persons' instructions about when, where, and how he/she is to work is ordinarily an employee. This control factor is present if the person or persons for whom the services are performed have the right to require compliance with instructions.

080402 Training. Training the worker by requiring an experienced employee to work with the worker, by corresponding with the worker, by requiring the worker to attend meetings, or by using other methods, indicates that the person or persons for whom the services are performed want the services performed in a particular method or manner.

080403 Integration. Integration of the worker's services into the overall business operations generally shows that the worker is subject to direction and control. When the success or continuation of a business depends to an appreciable degree upon the performance of certain services, the workers who perform those services must necessarily be subject to a certain amount of control by the owner of the business.

080404 Services Rendered Personally. If the services must be rendered personally, presumably the person or persons for whom the services are performed are interested in the methods used to accomplish the work, as well as in the results, and the control factor is satisfied.

080405 Continuing Relationship. A continuing and regular relationship between the worker and the person or persons for whom the services are performed indicates that an employer-employee relationship exists. A continuing and regular basis may exist where work is performed at frequently recurring although irregular intervals.

080406 Set Hours of Work. The establishment of set hours of work by the person or persons for whom the services are performed is a factor indicating and showing necessary control.

080407 Doing Work on Employer's Premises. If the work is performed on the premises of the person or persons for whom the services are being performed, that factor suggests control over the worker, especially if the work could be done elsewhere. Work done off the premises of the person or persons receiving the services, such as at the office of the worker, indicates some freedom from control. However, this fact by itself does not mean that the worker

is not an employee. The importance of this factor depends on the nature of the service involved and the extent to which an employer generally would require that employees perform such services on the employer's premises. Control over the place of work is indicated when the person or persons for whom the services are performed have the right to compel the worker to travel a designated route, to canvass a territory within a certain time, or to work at specific places as required.

080408 Order or Sequence Set. If a worker must perform services in the order or sequence set by the person or persons for whom the services are performed, that factor shows that the worker is not free to follow the worker's own pattern of work but must follow the established routines and schedules of the person or persons for whom the services are performed. Often, because of the nature of the occupation, the person or persons for whom the services are performed do not set the order of the services or set the order infrequently. It is sufficient to show control, however, if such person or persons retain the right to do so.

080409 Oral or Written Reports. A requirement that the worker submit regular or written reports to the person or persons for whom the services are performed indicates a degree of control appropriate for an employee.

080410 Payment of Business and/or Traveling Expenses. If the person or persons for whom the services are performed ordinarily pay the worker's business and/or traveling expenses, the worker is ordinarily an employee. An employer, to be able to control expense, generally retains the right to regulate and direct the worker's business activities.

080411 Furnishing of Tools and Materials. The fact that the person or persons for whom the services are performed furnish significant tools, materials, and other equipment tends to show the existence of an employer/employee relationship.

080412 Right to Discharge. The right to discharge a worker is a factor indicating that the

worker is an employee and the person possessing the right is an employer. An employer exercises control through the threat of dismissal, which causes the worker to obey the employer's instructions. An independent contractor, on the other hand, cannot be fired so long as the independent contractor produces a result that meets the contract specifications.

080413 Right to Terminate. If the worker has the right to end his or her relationship with the person for whom the services are performed at any time he or she wishes, without incurring liability, that factor indicates an employer/employee relationship.

080414 Significant Investment. If the worker invests in facilities that are used by the worker in performing services and are not typically maintained by employees (such as the maintenance of an office rented at fair value from an unrelated party), that factor tends to indicate that the worker is an independent contractor. On the other hand, lack of investment in facilities indicates dependence on the person or persons for whom the services are performed for such facilities and accordingly, the existence of an employer/employee relationship. Special scrutiny is required with respect to certain types of facilities such as home offices.

080415 Realization of Profit or Loss. A worker who can realize a profit or suffer a loss as a result of the worker's services (in addition to the profit or loss ordinarily realized by employees) is generally an independent contractor, but the worker who cannot is an employee. For example, if the worker is subject to a real risk of economic loss due to significant investments or a bona fide liability for expenses, such as salary payments to unrelated employees, that factor indicates that the worker is an independent contractor. The risk that the worker will not receive payment for his or her services, however, is common to both independent contractors and employees and thus does not constitute a sufficient economic risk to support treatment as an independent contractor.

080416 Working for More Than One Firm at a Time. If a worker performs more than de

minimis services for a multiple of unrelated persons or firms at the same time, that factor generally indicates that the worker is an independent contractor. However, a worker who performs services for more than one person may be an employee of each of the persons, especially where such persons are part of the same service arrangement.

080417 Making Services Available to General Public. The fact that a worker makes his or her services available to general public on a regular and consistent basis indicates an independent contractor relationship.

080418 Hiring, Supervising, and Paying Assistants. If the person or persons for whom the services are performed hire, supervise, and pay assistants, that factor generally shows control over the workers on the job. However, if one worker hires, supervises, and pays the other assistants pursuant to a contract under which the worker agrees to provide materials and labor and under which the worker is responsible only for the attainment of a result, this factor indicates an independent contractor status.

080419 Full Time Required. If the worker must devote substantially full time to the business of the person or persons for whom the services are performed, such person or persons have control over the amount of the time the worker spends working and thereby restricts the worker from doing other gainful work. An independent contractor, on the other hand, is free to work when and for whom he or she chooses.

080420 Payment by Hour, Week, Month. Payment by the hour, week, or month generally points to an employer-employee relationship, provided that this method or payment is not just a convenient way of paying a lump sum agreed upon as the cost of a job. Payment made by the job or on a straight commission generally indicates that the worker is an independent contractor.

0805 DoD EMPLOYEE BENEFIT PORTABILITY

080501 Purpose. This section prescribes retirement accounting procedures for all nonappropriated fund (NAF) payroll offices having responsibility for employees who, under the Portability of Benefits for Nonappropriated Fund Employees Act of 1990, P.L. 101-508, have elected to retain their Civil Service Retirement coverage. Election to retain Civil Service Retirement coverage may be made only if the employee is vested in the plan of the losing employment system, i.e., five years of creditable service for the Civil Service Retirement System (CSRS) or the Federal Employees Retirement System (FERS). The Federal Personnel Manual (FPM), chapters 831 and 832 contain policies and instructions for administering the retirement system. FPM Supplement 831-1 contains the basic instructions for maintenance and disposition of retirement records.

080502 Employee Retirement System. The Nonappropriated Fund Notification of Personnel Action Form will reflect the appropriate retirement system to which the employee is subject.

080503 Responsibilities. Nonappropriated fund payroll offices must fulfill the following general responsibilities relating to the Civil Service retirement systems.

A. Prepare and maintain an SF 2806/SF 3100, Individual Retirement Record, for each employee subject to either CSRS or FERS.

B. Maintain adequate control over retirement records and associated monetary balances.

C. Requisition and maintain stocks of all retirement forms.

D. Promptly send claims and records to OPM. OPM requires all Federal agencies to get at least 80 percent of all claims for benefits to OPM within 30 days of the retirement or separation date.

E. Withhold retirement deductions from employees' salaries, make agency contributions, and send these to OPM for deposit. Deductions begin on the day employee

acquires coverage under the retirement system and must be prorated for partial pay periods.

080504 Routing Records of Separated Employees. Forward records of separated employees directly to the Employees Service and Records Center, Boyers, PA, as follows:

A. CSRS Retirement Records

OPM/CSRS  
P.O. Box 45  
Boyers, PA 16020

B. FERS Retirement Records

OPM/FERS  
P.O. Box 200  
Boyers, PA 16020

080505 Preparation and Maintenance of Individual Retirement Records.

A. Forms. An SF 2806/3100 is maintained for each employee subject to CSRS/FERS. These forms are used by OPM to adjudicate the retirement rights of a separated employee or survivors. It is important each SF 2806/3100 be correct, complete, clear in every detail, and properly certified. Timely and accurate maintenance of SF 2806/3100 expedites close-out procedures when an employee is separated or transferred to the paying jurisdiction of another agency.

B. Preparation of Form. The NAF payroll office will prepare an SF 2806/SF 3100 for each employee subject to CSRS/FERS.

C. Method of Posting.

1. The SF 2806/3100 may be posted by automated data processing system, typewriter, or by handwriting in ink. All entries must remain within the ruled lines. If necessary, use a second line to complete an entry, but do not post in the margin.

2. Corrections to manually maintained SF 2806/3100 will be made by lining through the incorrect item, entering the correct

data, and initialing the correction.

3. If the Service History or Fiscal Record becomes filled on one side of the record for a manually maintained record, continue posting on the reverse side by bringing the cumulative salary deductions forward with the annotation "Balance Forward".

D. Payroll Office Number (PON).

Each nonappropriated fund payroll office has been assigned a payroll office number which has been forwarded to OPM. This number is used by OPM to control records and identify the payroll office making and remitting deductions and contributions. This number must be reflected on each retirement record.

E. Maintenance of Service History.

1. Post service history entries as they occur. Obtain the data from the nonappropriated fund notification of personnel action. FPM Supplement 292-1 contains the standard abbreviations which shall be used.

2. Include additional pay to which an employee is regularly entitled and that is a part of basic salary for CSRS/FERS deductions. Omit postings for additional pay which is received on an irregular or unscheduled basis. Also omit additional pay not subject to CSRS/FERS deductions.

F. Fiscal Record Posting.

1. Post the total of retirement deductions withheld during the year in column 6 of the SF 2806/3100 at the end of the calendar year. If no deductions were made because of a non-pay status, enter a zero in column 6. If an employee had more than one retirement deduction rate during the year, enter separate yearly totals for each retirement deduction rate and note the deduction percentage rate, for each entry in column 8.

2. Include repayments in the current year of prior year deductions allowed under the retroactive provisions of the Portability of Benefits for Non-Appropriated

Fund Employees Act of 1990 in column 6. Column 8 shall carry the annotation "Includes repayment of \$xx.xx in prior year deductions per P.L. 101-508.

3. If calendar year deductions entered in column 6 include deductions from additional pay not included in the base pay posted in the Service History, place an asterisk after the amount in column 6. Place an asterisk and foot-note additional pay status "APS" in the lower left corner of the form. If calendar year deductions are annotated APS, show in column 8 the number of hours Leave Without Pay (LWOP) for each hourly rate during the year. If none, show "No LWOP". All LWOP must be shown.

G. Entries in Remarks Columns.

In addition to the service history and fiscal data, record the following information on the SF 2806/3100 under Remarks, column 4 and 8, as appropriate:

1. Enter periods of LWOP of more than 6 months in a calendar year.

2. Enter the number of days in a pay status during each calendar year or, if paid at an hourly rate and the number of days on which work was performed cannot be determined, enter the number of hours in a pay status during each calendar year for employees serving on an intermittent basis without a regular tour of duty,

3. Enter the tour of duty (4 hours a day, 5 days a week, etc.) for employees serving on a part-time basis with a regular tour of duty administratively determined in advance,

4. Enter the last date on which the employee was in a pay status, unused sick leave, and the Service Computation Date annotated as "SCD (month, day, year)." when an employee retires.

H. Health Benefits Data.

Nonappropriated fund employees electing to retain civil service retirement coverage are ineligible for federal employee health benefit

enrollment. These employees, however, may elect to participate in the respective NAF health insurance program. Nonetheless the individual retirement record must be annotated concerning status of health benefits enrollment. Individual retirement records forwarded to OPM for regular retirement, disability retirement, or deceased employees must be annotated "Employee Ineligible for Enrollment - P.L. 101-508" in column 4 of the record.

I. Sick Leave. If an employee dies or separates and appears eligible for an immediate annuity, enter the amount of unused sick leave in column 4 of the individual retirement record as follows:

1. If there is a minus or zero sick leave balance, enter "No unused sick leave balance."

2. If the employee has unused sick leave at the time of separation, enter the number of hours and cite "P.L. 101-508."

3. For employees with uncommon tours of duty, enter the number of hours of unused sick leave, with notation showing there was an uncommon tour of duty, and the date the sick leave, if used, would have expired. Cite "P.L. 101-508."

4. If the individual retirement record is for an application of disability retirement, post "Will use (or has used) all sick leave." When the application for disability retirement has been approved, post "No unused sick leave balance" on the final individual retirement record to be forwarded to OPM.

J. Federal Employees Group Life Insurance. Nonappropriated fund employees electing to retain civil service retirement coverage are ineligible for federal employees group life insurance. These employees, however, may elect to participate in the respective NAF life insurance program. Nonetheless the individual retirement record must be annotated concerning status of life insurance enrollment. Individual retirement records forwarded to OPM for regular retirement, disability retirement, or

deceased employees must be annotated "Employee Ineligible for Enrollment - P.L. 101-508" in column 4 of the record.

K. Disposition of the Individual Retirement Record.

1. Transfers between payroll offices in the same Military Service or Defense Agency, e.g., from one Air Force payroll office to another Air Force payroll office:

a. If the employee is covered by CSRS complete the SF 2806 and transmit it to the new servicing payroll office via the SF 2807 (Register of Separations and Transfers-Civil Service Retirement System). This type of transfer is commonly referred to as an "Interagency Transfer."

b. If the employee is covered by FERS complete the SF 3100 record and transmit it to OPM at the address in paragraph 080504 via the SF 3103 (FERS Register of Separations and Transfers).

2. Transfers between payroll offices not in the same Military Service or Defense Agency, e.g., from an Air Force payroll office to a Navy payroll office:

a. If the employee is covered by CSRS complete the SF 2806 and transmit it to OPM at the address in paragraph 080504 via the SF 2807 (Register of Separations and Transfers-Civil Service Retirement System).

b. If the employee is covered by FERS complete the SF 3100 record and transmit it to OPM at the address in paragraph 080504 via the SF 3103 (FERS Register of Separations and Transfers).

3. Employee Death. Send the SF 2806/3100 via the SF 2807/3103 to OPM within 5 days of the date of the computation of final pay. Enter in column 4 of the SF 2806/3100 the service computation date: "SCD (month, day, year)" and unused sick leave data.

4. Application for Refund of Retirement.

a. Upon leaving federal employment, an employee may request refund of retirement deductions by submitting SF 2802, Application for Refund of Retirement Deductions.

b. If the request for refund is received at the same time as the notification of the separation, attach the SF 2802 to the SF 2806/3100 and submit to OPM within 10 calendar days after the ending date of the pay period in which the employee was separated from the service. Refer to the SF 2802 in column 4 of the SF 2807/3103.

c. If the employee completes the SF 2802 within 30 days after the separation date, and the SF 2802 is received in the payroll office after the SF 2806/3100 is transmitted to OPM, send the SF 2802 to OPM. Annotate the SF 2807/3203 showing the date and number of the SF 2807/3103 on which the SF 2806/3100 was transmitted.

d. If the employee has been separated more than 30 days, he or she should file the SF 2802 directly with OPM.

5. Disability Retirement Separations. Advance close-out of the SF 2806/3100 is required when an application for disability retirement is received from a current employee.

a. Annotate the SF 2806/3100 as follows:

(1) Add the words "Preliminary-Disability Retirement" in the top margin of the SF 2806/3100.

(2) Post retirement deduction to the close of the previous calendar year.

(3) Enter the date application for disability retirement was made in the service history.

(4) Show the pay status of the employee, as applicable: "Employee

in duty status", "Leave with pay will end (date)", or "Pay stopped (date)." Also, enter in column 4 of the SF 2806/3100 the service computation date as follows: "SCD" (month, day, year).

(5) On each preliminary SF 2806/3100 submitted with an application for disability retirement, enter in column 4 "Employee Ineligible for Enrollment in Health Benefits or Federal Employees Government Life Insurance."

(6) Show the unused sick leave data in column 4 of the SF 2806/3100 and enter "Will use all sick leave" or "No unused sick leave". In addition enter projected date pay will terminate, i.e. when sick leave terminates.

(7) Prepare a new SF 2806/3100 to record retirement deductions withheld after sending the preliminary SF 2806/3100. Add the words "Final-Disability Retirement" above the date of birth. Enter "APP FOR DIS RET EXEC" and annotate the date application for Disability Retirement (SF 2801) was executed on the Service History of the SF 2806/3100. Post all actions that occur after submission of the application for preliminary disability retirement to this record.

(8) Prepare the SF 2807/3103 and send the preliminary SF 2806/3100 with the application for disability retirement as follows: for CSRS employees, OPM/CSRS, P.O. Box 45, Boyers, PA 16020; for FERS employees, OPM/FERS P.O. Box 200, Boyers, PA 16020, within 5 calendar days after receipt of the application. Annotate column 4 of the SF 2807/3103 with "Preliminary Disability" and the date established by the civilian personnel office.

(9) On approval of the application, complete the final SF 2806/3100. Post retirement deductions withheld after the preliminary SF 2806/3100 was sent. Show the effective date of disability retirement and the date that pay ceased on SF 2806/3100. Send the final SF 2806/3100 to OPM within 5 calendar days after the date of the employee's final pay check.

(10) If the employee's application is denied, continue using the final SF 2806/3100. OPM will not return the preliminary SF 2806/3100.

6. Non-Disability Retirement Separations. Send the SF 2806/3100 with the SF 2801, Application for Immediate Retirement, with attached CSC Form 1084, Information in Support of Civil Service Retirement Application, as follows: CSRS employees, OPM/CSRS, P.O. Box 45, Boyers, PA 16020; for FERS employees, OPM/FERS, P.O. Box 200, Boyers, PA 16020 within 10 calendar days after the ending date of the pay period in which the employee retired.

a. Use OPM developed checklists to ensure complete and accurate processing. Submit completed and signed checklist to OPM with the retirement package.

b. Post retirement deductions through the date of retirement on the Fiscal Record of the SF 2806/3100.

c. Enter the type of non-disability retirement in the service history, e.g. optional, mandatory, or discontinued service.

d. Enter the date pay stopped in column 4 of the SF 2806/3100. This will normally be the date of retirement; however, if pay status ends before the retirement date, enter the earlier date. Enter the service computation date "SCD (month, day, year)."

7. Service Credit Deposits for Post-1956 Military Service. Any individual employed in a position subject to the CSRS on or after October 1, 1982, will receive credit for Post-1956 military service only if he or she deposits a sum equal to seven percent of the military basic pay received for such post-1956 military service. Individuals who were first employed under CSRS before October 1, 1982, will have the option of making deposits for post-1956 military service and avoid a possible annuity reduction. These same provisions apply to FERS employees, except that the amount to be deposited will be equal to three percent of the military basic pay

received for post-1956 military service.

a. Payment of service credit deposits may be made either by cash payment or biweekly payroll deductions. Installment payments must be in whole dollar amounts not less than \$25 per pay period, except for the last payment which may be in any amount to complete repayment. Unpaid balances are subject to interest calculations, and OPM will issue annual guidance concerning the rate of interest to be used.

b. Record payments on the OPM Form 1514, Military Deposit Worksheet. In addition, a separate SF 2806/3100 will also be maintained for Post-1956 military deposits. The SF 2806/3100 Service History should carry the annotation "Military Service History and Deposit Record."

c. Close out the SF 2806 when military service credit deposits are complete and annotate in the Remarks column "Deposit paid in full." Submit the 2806 along with the OPM Form 1514 and the SF 2803 to OPM via a regular SF 2807/3103.

d. Close out and submit the SF 2806/3100 to OPM via a regular SF 2807/3103 in the event an employee resigns, retires, or dies prior to completing military service deposits. Annotate the SF 2806/3100 in the Remarks column with either "Paid in full" or "Partially paid", depending upon action taken by the employee or survivor. Notify the employee or survivor of the intended close out and provide the opportunity to complete payment prior to submitting to OPM. Advise the employee or survivor that refunds of military service deposits may be made only by OPM.

e. Close out and send the SF 2806 for military deposits to the new payroll office when an employee transfers to another payroll office within the same Military Service or Defense Agency. When the transfer is to another payroll office not in the same Military Service or Defense Agency, close out the SF 2806 and submit to OPM. A FERS Post-1956 retirement record is sent to OPM together with

the regular retirement record for all transfers to another payroll office including transfers within the same military service.

**080506**     Safeguarding Individual Retirement Records. Individual retirement records not maintained in a mechanized manner must be stored in secured fireproof containers. It is recommended that manually maintained individual retirement records be microfilmed/microfiched after the annual posting, and that these be stored separately from the record itself.

**080507**     Registers of Separations and Transfers.

A. The SF 2807 (Register of Separation and Transfers) is used to control and transmit SFs 2806 to other payroll offices and OPM. The SF 3103 (Register of Separation and Transfers) is used to control and transmit SFs 3100 to OPM.

B. Series Designations. Maintain two separate series of SFs 2807 transmittal numbers depending on whether the SF 2807 is transmitted to another payroll office or to OPM. Each series is consecutively numbered throughout the calendar year, and the first SF 2807 prepared in a new calendar year will begin with the number 1. SFs 2807 transmitted to another payroll office will be designated "IA" (Intra-Agency). Those transmitted to OPM will be designated "OPM." For example, the first SF 2807 transmitted to OPM for calendar year 1992 will be designated "OPM-92-1", while the first SF 2807 submitted to another payroll office will be designated "IA-92-1."

C. As all SFs 3100 are transmitted to OPM, it is necessary to maintain only one series of transmittal numbers for SFs 3103. These must also be consecutively numbered throughout the calendar year, and the first SF 3103 transmitted to OPM in a calendar year will begin with the number 1. All SFs 3103 will be designated "FERS." For example the first SF 3103 submitted to OPM for calendar year 1992 will be designated "FERS-92-1."

D. More than one SF 2806/3100 may be submitted with each SF 2807/3103. However, do not delay sending completed retirement records while other records are being prepared for submission.

E. Copies required.

1. OPM series. Prepare and submit the original to OPM. Retain one copy in payroll office files. An additional copy may be required according to your DFAS Center departmental instructions.

2. IA series. Prepare and submit the original and one copy to the gaining payroll office. Retain one copy in payroll office files. An additional copy may be required according to your Center departmental instructions.

3. FERS series. Prepare and submit the original to OPM. Retain one copy in payroll office files. An additional copy may be required according to your DFAS Center departmental instructions.

F. Filing the SF 2807/3103. File SFs 2807 received from other payroll offices in a separate file in order of receipt by calendar year. Maintain a separate file for each "IA" series of SFs 2807 received. These files will be in numerical order for each calendar year. Maintain a separate file for SFs 3103 in numerical order for each calendar year.

**080508**     Adjustments.

A. Current Employees

1. Erroneous Deductions. If an erroneous amount was deducted for retirement from the pay of a current employee, make an adjustment on the next payroll. Increase or decrease current retirement deductions from the employee's current pay period earnings, and make a corresponding adjustment in the employer's contributions. Include the adjustment in the SF 2812L prepared for the current pay period.

2. Deductions Not Withheld When Required. If deductions were not made for a period when the employee should have been covered by the CSRS/FERS retirement acts, compute the correct amount and make the withholding the next pay period. If deductions were made for a NAF retirement plan when deductions were required for CSRS/FERS, adjust the NAF retirement deductions and contributions, and FICA contributions and deductions, in the next pay period submission to these retirement plans. These amounts should then be offset against the amounts that should have been submitted for CSRS/FERS to determine the net amount that must be withheld from the employee's current period pay.

B. Separated Employees.

1. Overdeductions:

a. When an excess amount has been deducted from a former employee's pay, and the SF 2806/3100 has not yet been forwarded to OPM, the amount is included in the current calendar year and total accumulative deduction postings in columns 6 and 7 respectively on the SF 2806/2807. In addition, the amount of excess deductions is shown in column 8, Remarks.

b. If the overdeduction is found after the SF 2806/3100 was sent to OPM, an SF 2806-1, Notice of Correction of Individual Retirement Record for CSRS employees, or an SF 3101, Notice of Correction of Individual Retirement Record (FERS), must be prepared and submitted to OPM.

c. When an overdeduction from a former employee's pay results in excess employer contributions, the amount of the excess should be deducted from the next pay period's SF 2812L.

2. Underdeductions

a. When an insufficient amount has been deducted from a former employee's pay, and the SF 2806/3100 has not yet been submitted to OPM, note the amount of

the deficiency in column 8 of the SF 2806/3100. If the SF 2806/3100 has been submitted, another SF 2806/3100 must be prepared and annotated "Supplemental" in the upper left margin.

b. When an underdeduction from a former employee's pay results in insufficient employer contributions, the amount of the shortfall should be included in the next pay period's SF 2812L.

3. Other Corrections. Corrections to the Service History or Name History portions of the SF 2806/3100 should be made on the retirement record if the error is detected before to the record is submitted to OPM. If the error is detected after the record is submitted to OPM, prepare an SF 2806-1 or SF 3101.

C. Transferred Employees

1. Overdeductions

a. When an excess amount has been deducted from a transferred employee's pay, and the SF 2806 has not yet been forwarded to another payroll office within the same Military Service, the amount is included in the current calendar year and total accumulative deduction postings in columns 6 and 7 respectively on the SF 2806/2807. In addition, the amount of excess deductions is shown in column 8, Remarks.

b. Prepare and submit an SF 2806-1, Notice of Correction of Individual Retirement Record for CSRS employees, or an SF 3101, Notice of Correction of Individual Retirement Record, to the new payroll office if the overdeduction is found after the SF 2806/3100 was forwarded to another payroll office within the same Military Service.

c. Deduct the amount of excess employer contributions from the next pay period's SF 2812L when an overdeduction from a transferred employee's pay results in excess employer contributions.

2. Underdeductions. Note

the amount of underdeductions in column 8 of the SF 2806 when an insufficient amount has been deducted from a former employee's pay, and the SF 2806 has not yet been forwarded to another payroll office within the same Military Service. Prepare and forward an SF 2806-1 to the new payroll office if the SF 2806 has been submitted.

3. Other Corrections. Correct the Service History or Name portion of the SF 2806 on the retirement record if the error is detected before to the record is submitted to another payroll office within the same Military Service. Prepare and submit an SF 2806-1 to the new payroll office if the error is detected after the record is submitted.

#### 4. Retroactive Payments

a. Report CSRS/FERS deductions withheld from a retroactive salary payment for a separated employee by preparing a supplemental SF 2806/3100, and forwarding it to OPM by SF 2807/3103.

b. Include CSRS/FERS deductions withheld from a retroactive salary payment for a current employee in the current year salary deduction on the SF 2806/3100 being maintained for the employee.

c. Report CSRS/FERS deductions withheld from a retroactive salary payment for an employee transferred to another payroll office within the same Military Service by preparing a supplemental SF 2806/3100, and forwarding it to the new payroll office by SF 2807/3103.

#### 080509 Availability of Retirement Funds for Loan and Setoffs.

##### A. Loans and Private Debt.

1. An employee may not borrow from the Civil Service retirement funds or assign money credited to his or her account as security for a loan for any other purpose. Generally, lump-sum credit or annuity is not subject to execution, levy, attachment,

garnishment, or other legal process.

2. However, OPM will comply with a garnishment or attachment order issued to enforce a child support or alimony obligation. In addition OPM will comply with the assignment of retirement benefits in a State court order, decree, or community property settlement agreement in connection with the divorce, annulment of marriage, or legal separation of a Federal employee or retiree.

##### B. Setoff.

1. Conditions governing collection by setoff.

a. An employee's contributions to the Civil Service retirement fund may be setoff to recover any valid debt to the United States if all of the conditions below are met.

(1) The employee has been separated.

(2) The payroll office has exhausted all other means of recovery.

(3) The employee has filed an application for refund or for a monthly civil service annuity benefit.

(4) The creditor agency has given the employee an opportunity to request reconsideration of the collection including an oral hearing, waiver, or compromise.

b. An employee's contributions to the Thrift Savings Plan may not be setoff to recover any valid debt to the United States.

##### 2. Setoff Procedure

a. Before a payroll office can ask OPM to recover a debt of a former employee from the retirement fund, the employee must be notified in writing of the following:

(1) The reason for the debt.

(2) The date repayment must be made (normally not more than 30 days after date of the notice).

(3) The intention to collect the debt by setoff from the retirement fund.

(4) The opportunity to request reconsideration of the decision to collect the indebtedness, including waiver or compromise.

(5) An explanation of the right to an oral hearing.

b. Only one written demand containing the above notice is required to be sent to the employee. If there is no reason to believe that the employee has not received the demand notice, the payroll office has the right to judge the claim based on evidence in its possession.

c. An SF 2805, Request for Recovery of Debt Due the United States, will be prepared, and the payroll office will send Parts 1, 2, and 4 of the SF 2805 to OPM. Part 3 will be retained in the payroll office.

d. If a debt has been pursued to judgement, written demand need not be made. A copy of the court order must be attached to SF 2805.

e. Do not retain the SF 2806/3100 pending completion of action necessary to prepare and submit an SF 2805. If an SF 2805 will be submitted at a later date, the SF 2806 should be annotated in column 8, Remarks, with the existence of the debt, the amount (if known), and the reason for the debt. If the exact amount of the debt is unknown, note in the SF 2806, column 8, that the employee is indebted in an unknown amount.

080510 Annual Summary of Retirement Fund Transactions. OPM requires an annual

summary and reconciliation of amounts reported throughout the calendar year for CSRS and FERS. These summaries and reconciliations are performed at the departmental level at each DFAS Center. Each Center has different procedures concerning how this annual summary and reconciliation is performed; therefore you should contact the Center which has responsibility for your payroll office to obtain their instructions.

080511 Thrift Savings Plan Retroactive Contributions.

A. The Federal Retirement Thrift Investment Board has developed a form to be used in capturing information concerning retroactive contributions for employees who have transferred from a civil service position to a NAF position, and who are eligible to make retroactive contributions in accordance with the Portability of Benefits for Nonappropriated Fund Employees Act of 1990. The form to be used is the TSP-1-NAF, Election Form for Retroactive Contributions - NAF Employees. This form will not be contained in any Thrift Savings Plan (TSP) Bulletin.

B. It is recommended that you only use this form to capture elections concerning retroactive contributions allowable by the Portability of Benefits for Nonappropriated Fund Employees Act of 1990. The TSP-1, TSP Election Form, should be used to document information concerning current contributions to TSP.

080512 Retroactive Adjustments Allowed by P.L. 101-508. OPM has issued guidance concerning adjustments required when an employee elects to be retroactively covered by his or her former retirement plan. The guidance differs depending on whether the employee was previously covered by the Civil Service Retirement System or the Federal Employees Retirement System. This guidance is outlined below.

A. Employees Electing to Retain Full CSRS Coverage

### 1. Employee Deductions.

CSRS employees have certain options concerning the payment of employee deductions when deductions have not been taken from basic pay to cover the required deduction. The employee should have these options explained, and a written election should be obtained which includes a statement concerning the option elected and whether the employee has received a direct refund from the nonappropriated fund (NAF) retirement plan for previously withheld deductions. The options are as follows:

#### a. Agency Correction of

Records. Election of this option by the employee requests the employing agency to collect the employee deduction, if necessary, and make the required adjustments to the Individual Retirement Record. If the employee selects this option, he or she will not have to go through normal OPM service credit procedures, and interest will not be charged.

(1) If the employee is retroactively placed in CSRS, both the agency and the employee have overpaid FICA taxes and Nonappropriated Fund retirement (unless the employee received a direct refund for his NAF retirement deductions). Instructions for making the proper adjustments in this situation are contained in Comptroller General Decision B-202201.

(2) After the adjustments required by Comptroller General Decision B-202201 have been completed, the employees' salary may not have been reduced by an amount equal to that necessary for the full CSRS employee deduction. If this is the case, the employee has received a salary overpayment that may be considered for waiver. If the request for waiver is denied, the employee must repay the amount. Repayment may be made in either in a single lump-sum amount or in installments. If the request for waiver is approved, the NAF instrumentality must pay the employee's share from its funds and report the payment via the SF 2812L no later than the second pay period after the decision. In either case, such repayments must be included as calendar year salary deductions on the employee's SF 2806.

#### b. Payment of Deposit to

OPM. If the employee elects not to have his or her records corrected, there will still be an option to file Standard Form 2803, Application for Deposit or Redeposit, with OPM and make payments directly to OPM through normal service credit channels. This deposit must be completed before the annuity is finally adjudicated at the time of the employee's retirement. In this case, the employee's SF 2806 must be documented to reflect the period for which deductions were not withheld, the amount of deductions that should have been taken, and that the employee did not elect correction. If the employee chooses this option, interest on the deposit will be charged as required by law.

#### c. Nondeduction service.

If the employee elects this option, the retroactive period will be considered as nondeduction service. Service performed after October 1, 1982, will not be used in the computation of the annuity, if the deposit is not made. In this case, the employee's SF 2806 must be documented to reflect the period for which deductions were not withheld, the amount of deductions that should have been taken, and that the employee elected nondeduction service.

### 2. Agency Contributions.

Regardless of the option selected by the employee, the NAF instrumentality must send OPM its share of CSRS retirement contributions for each employee. The NAF instrumentality should compute and send to OPM, in accordance with their instructions for adjusting retirement, an amount equal to that which would have been contributed had the employee been covered by CSRS rather than NAF during the period in question. This payment must include an amount retroactive to the effective date of the CSRS coverage. These contributions should be submitted to OPM no later than the second pay period after the amount of the agency contribution is established for each employee.

#### B. Employees Electing to Retain FERS Coverage

1. Unlike employees who elect to retain CSRS coverage, those employees

who elect to retain FERS coverage do not have an option concerning whether to repay for periods of retroactive deductions. All periods subject to retroactive deductions must be repaid. The NAF instrumentality is responsible for repaying the full normal cost, which includes the employee and employer share. The amount that should have been deducted from the employee's basic pay to cover FERS retirement deduction constitutes an overpayment of pay to the employee. Any overpayment of pay is subject to collection unless it is waived.

2. If the employee is retroactively placed in FERS, both the agency and the employee have overpaid Nonappropriated Fund retirement (unless the employee received a direct refund for his NAF retirement deductions). Action should be taken to recover both employee deductions and employer contributions for periods of retroactive FERS coverage. Prior to requesting a refund from the NAF retirement plan, a written statement should be obtained from the employee concerning whether he or she has received a direct refund from the Nonappropriated Fund (NAF) retirement plan for previously withheld deductions. This statement then will become the basis to apply for a refund of previously withheld NAF retirement employee deductions. Refunds of employee deductions received from NAF retirement plans should be offset against the amount owed to OPM for FERS employee deductions to determine the net amount of the overpayment of pay.

3. Agency Contributions. The NAF instrumentality must send OPM its share of FERS retirement contributions for each employee. The NAF instrumentality should compute and send to OPM, in accordance with their instructions for adjusting retirement, an amount equal to that which would have been contributed had the employee been covered by FERS rather than NAF during the period in question. This payment must include an amount retroactive to the effective date of the FERS coverage. These contributions should be submitted to OPM no later than the second pay period after the amount of the agency contribution is established for each employee.

080513 Annual Leave Lump Sum Repayment. Employees who are covered under the provisions of the Portability of Benefits for Nonappropriated Fund Employees Act of 1990 who were paid lump sum leave payments between January 1, 1987 and April 15, 1991, as a result of a transfer between appropriated and nonappropriated fund positions, may repay those lump sum payments and receive recredit of the leave. Employees who separated from Federal service between January 1, 1987 and April 15, 1991, and who were subsequently rehired may also have the opportunity to repay the lump sum leave and receive recredit in accordance with Section 1077 of Public Law 102-484 (the DoD Authorization Act for Fiscal Year 1993).

#### 0806 DUAL COMPENSATION

080601. General The Dual Compensation Act of 1964, as amended (codified at 5 U.S.C. 5531-33, provides that a retired member of the armed forces who later is employed in a Federal civilian position (including a NAF position) may receive the full salary of that position, but their retired or retainer pay may be reduced. For details, refer to Volume 7, Part B of the DoD financial Management Regulation 7000.14-R.