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EMPLOYEE/SUPERVISOR INFORMATION BULLETIN

#1-06 JANUARY 2006

This bulletin is designed to inform employees and supervisors of new civilian Human Resource issues and refresh their knowledge of existing policies and procedures. If you have topics you would like us to address, please contact your Human Resource Specialist.

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2006 Pay Adjustments and Effective Date The President signed an Executive order to implement the January 2006 pay adjustments for General Schedule (GS) employees. A total increase of 2.83% is effective the first pay period on or after January 1, 2006 (January 8, 2006). All of the pay tables including special salary scales can be found at the CPAC website at: www.eustis.army.mil/cpac/pay.

FOR DA CIVILIAN EMPLOYEES: Information at your finger tips. You can now print your Notification of Personnel Action (SF 50s) As a result of a new portal patch released on 22 December 05, employees can now view and print their own Notification of Personnel Action (SF50s). The portal can be accessed at www.cpol.army.mil under Employee Portal using your **AKO** login.

Pentagon Postpones Training on National Personnel Security System (NSPS)

DOD has concluded more time is needed to focus on simplifying the performance management design, getting performance objectives right, and ensuring all understand the system. The majority of Fort Eustis activities were not scheduled to deploy until Spiral 2 projected for Oct 07. We do not know at this time if that date will be affected, only that Spiral 1.1 (CPAC and TACOM Watercraft) will not deploy as planned in Feb 06.

The Importance of Checking Employment References Reference checking is a useful but underused tool in the hiring process. Communication with a candidate's reference should not be limited to confirming dates of employment and positions held. Ideally, it should include specific information that can form part of the overall assessment of a candidate's fitness for a position whenever possible. Failure to inquire about specific information concerning a candidate's past performance and abilities is a lost opportunity that may eventually lead to undesirable results.

Managers may be reluctant to discuss their experiences with a current or former employee. One concern seems to be fear of the potential for liability in a defamation suit. This concern has led many private sector employers to limit their references to confirming objectively verifiable information, such as dates of employment and salaries. However, federal employers do not have the same potential for exposure as private sector employers. Federal employers usually enjoy qualified immunity when checking references or providing references, as long as the discussion is limited in good faith to **job-related** matters in an effort to assess a candidate's fitness for the legitimate requirements of the contemplated position.

The key to giving and checking a reference is to keep the discussion specific, factual and job-related. When giving a reference, you should stick to the facts you personally observed. By focusing the discussion on facts, rather than opinions, allows prospective employers to form their own opinions. Similarly, when seeking a reference, you should ask probing questions about the work and work habits of the candidate. By drawing specific examples out of the former employer, you will obtain enough information to form your own judgment.

You may be concerned about the requirements of the Privacy Act when it comes to employment references. The Privacy Act protects certain types of information that is stored in a system of records, but it does not protect most job-related information that is independently based on your own personal observations in the workplace. If you stick to the employee's performance and work habits, it will be hard to dispute. For instance, it is never appropriate to discuss such things as disabilities, sick leave usage, religious practices, family circumstances, EEO complaints and other matters that are not strictly related to job requirements. In contrast, it is appropriate to discuss an employee's performance, without speculating as to the cause of any performance deficiencies. Appropriate subjects also include: the quality of an employee's work; the depth of an

employee's knowledge of a subject matter; an employee's job skills and expertise; the timeliness of an employee's work; and the extent of an employee's compliance with rules.

Another relevant consideration in giving references involves settlement agreements. If we have settled a case with a former employee, the settlement agreement may provide for a "clean record" or a neutral reference. You should get detailed guidance from the CPAC on how to comply with a settlement agreement.

Ratings for Temporary Promotions and Details- Temporary promotions and details for 120 days or more require performance plans and normally are documented by special appraisals.

EXCEPTION: Temporary promotions which are ongoing at the end of an employee's annual rating cycle require an annual rating. The reason for this is that an employee temporarily promoted officially occupies the position to which promoted. Therefore, if the employee's scheduled annual rating cycle ends while he/she is on a temporary promotion which has lasted at least 120 days, the rater of the position to which the employee is temporarily promoted must prepare the annual appraisal.

Conversely, an employee who is detailed continues to occupy the position from which detailed for official purposes. Thus, the rater of the detailed position prepares a special appraisal if the employee's annual rating cycle ends during the detail. The rater for the position from which the employee is detailed may either attach the special appraisal to the annual appraisal, or if the detail lasted for most of the rating period, adopt the special appraisal as the annual appraisal.

Notice of Family and Medical Leave Act Benefit

Under the **Family and Medical Leave Act (FMLA)** most federal employees are entitled to a total of up to 12 workweeks of **unpaid leave** (leave without pay) during any 12-month period for the following purposes:

- (1) Birth of employee's child and the care of such child;
- (2) Adoption or foster care placement of a child;
- (3) Care of a spouse, son, daughter, or parent who has a serious health condition;
- (4) A serious health condition of the employee that makes the employee unable to perform essential functions of their position.

Employees may elect to substitute annual leave and/or sick leave, consistent with current laws and OPM's regulations for using such leave, for any unpaid leave under the FMLA. For sick leave purposes, family member is defined as:

- (1) Spouse, and parents thereof;
- (2) Children, including adopted children and spouses thereof;
- (3) Parents;
- (4) Brothers and sisters, and spouses thereof; and
- (5) Any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

Currently, sick leave regulations allow employees to use:

(1) 5 days (40-hours) of paid sick leave each leave year to care for a family member, or to make arrangements for or to attend the funeral of a family member regardless of their sick leave balance.

(2) An additional 8 days (64 hours) of sick leave (for a total of 13 days) for this purpose if the employee maintains a sick leave balance of 80-hours at all times.

(3) Up to 12 weeks of paid sick leave in a leave year to care for a family member with a “serious health condition”.

The entitlement to use sick leave for family care purposes is limited to a maximum of 12 weeks of sick leave each leave year. If an employee has previously used 13 days of sick leave in a leave year for family care purposes, the 13 days must be subtracted from the 12-week entitlement. Likewise, if an employee has previously used 12 weeks of sick leave in a leave year to care for a family member with a serious health condition, he or she would not be entitled to an additional 13 days of sick leave for family care or bereavement purposes.

All leave is subject to supervisory approval. Contact your CPAC Human Resources Specialist if you have questions or to obtain additional information concerning the proper use of leave.

Weingarten Notice (Representation Rights)

Under Title 5, United States Code, section 7114(a)(2)(B), an employee being examined in an investigation (an investigatory examination or interview) is entitled to union representation if the examination is conducted by a representative of the agency, the employee reasonably believes that the examination may result in disciplinary action, and the employee asks for representation.

Specifically, Section 7114(a) of Title 5, United States Code states:

“(2) An exclusive representative of an appropriate unit in an agency shall be given the opportunity to be represented at---

(B) any examination of an employee in the unit by a representative of the agency in connection with an investigation if---

(i) the employee reasonably believes that the examination may result in disciplinary action against the employee; **and**

(ii) the employee requests representation.”

This right is commonly referred to as the “Weingarten” right, based on the U.S. Supreme Court’s private sector labor decision in *NLRB v. J. Weingarten, Inc.*, 420 U.S. 251 (1975). In addition to affording employees these “Weingarten” rights, the Statute, at 5 USC section 7114(a)(3), requires each agency to “annually inform its employees of their rights under paragraph (2)(B) of this subsection.” The Fort Eustis CPAC accomplishes the notifications through email annually and also makes it available continuously on our website at <http://www.eustis.army.mil/cpac/labor.htm> .

The employee's right to request representation as a condition of participation in an examination is limited to situations where the employee reasonably believes the investigation may result in disciplinary action. The right does not extend to "run-of-the-mill" shop floor conversations, for example, work instructions, training, corrections of work techniques, or counseling sessions. In such cases, there normally will not be any reasonable basis for an employee to fear that any adverse impact may result from the interview. Therefore, no reasonable basis for the employee to seek the assistance of a representative exists.

The Federal Labor Relations Authority has held that the right of the union to be represented includes the right to effectively represent the employee. The union representative must be allowed as much latitude as is consistent to maintain an orderly investigative process. On the other hand, the union representative should not be permitted to substitute his/her answers to questions for those of the employee or to prevent the employee from answering questions.

Questions concerning the above can be addressed to your CPAC Human Resources Specialist. In all cases, managers/supervisors should contact the CPAC for guidance before denying the rights to representation to any non-supervisory employee.

All Six TSP Funds Grow for Second Consecutive Month

December was kind to the Thrift Savings Plan, which saw all six of its funds grow.

- The I Fund grew the most, adding 4.64 percent. The growth was the Fund's highest in the past 12 months.
- The F Fund added 0.95 percent in December, its second consecutive month of growth following two months of loss.
- The G Fund posted its highest growth in more than a year in December, expanding by 0.45 percent.
- The S Fund added 0.37 percent in December.
- The C Fund grew by only 0.07 percent in December following the year's best month, in which it grew 3.75 percent.
- The L Fund, is broken into time horizons and participants select horizons based on when they will cash in the fund. The time horizons and their corresponding gains were:
 - ❖ L 2040 1.32 percent
 - ❖ L 2030 1.22 percent
 - ❖ L 2020 1.11 percent
 - ❖ L 2010 0.93 percent
 - ❖ L Income 0.59 percent

More information about the TSP can be found at <http://www.tsp.gov/index.html>.

Questions and Answers on the Effect of Lifting Percentage Limits on Employee Contributions to the TSP

There are major changes that involve the lifting of percent limitations for the Thrift Savings Plan Accounts.

Below are some questions and answer from the TSP website that might prove helpful. See questions #1 thru #3 below for clarification.

Q1: When will the TSP percentage limits on employee contributions be lifted?

A: The percentage limits on employee contributions to the TSP will be lifted in January 2006.

For civilian participants, this allows the flexibility to remove these limits the first pay date in January or the first pay period in January. For example, if the current limitations are lifted on the first pay date in January, your contribution election for a percentage or an amount above your current limit may have become effective in December. If these limits are lifted the first full pay period in January, your contribution election for a percentage or amount above your current limit will become effective in January.

For clarification contact your CPAC Representative.

Q2: When the TSP percentage limits on employee contributions have been lifted, may I elect to contribute 100% of my basic pay to the TSP?

A: Although you may elect to contribute 100% of your gross basic pay to the TSP, the payroll office will take all the mandatory deductions from your pay before it will take your voluntary TSP deductions. Consequently, you will not be able to contribute all of the basic pay that you earn each pay period to your TSP account.

Mandatory retirement deductions for all civilian TSP participants total over 8% of basic pay and include, as applicable, deductions for the FERS basic benefit, the CSRS annuity, Social Security, and Medicare. TSP participants who have Federal health benefits and life insurance must also have the deductions for these benefits taken from their pay before voluntary TSP contributions can be made. Other required deductions include (but may not be limited to) Federal and state income tax withholding and court-ordered payments.

Q3: Are there any other limits on my TSP contributions?

A: Yes, the Internal Revenue Code places an annual limit on elective deferrals, e.g., tax-deferred employee contributions to the TSP. For 2006, the elective deferral limit is \$15,000.

Consequently, once you have contributed \$15,000 in 2006, you may not make any more (regular) tax-deferred employee contributions for the rest of the year. For FERS employees, this also means that you will not receive any more agency matching contributions for the rest of the year.

Q4: I am a member of the uniformed services and am making contributions from pay that is tax-exempt. Does the elective deferral limit apply to these contributions?

A: No, however, there is another provision of the Internal Revenue Code which limits the total amount of contributions that can be made to your TSP account. For 2006, this limit is \$44,000.

Q5: I am using the elective deferral calculator to determine a specific dollar amount to be deducted each pay period that would allow me to maximize my (regular) contributions to the TSP. How many pay dates are there in 2006?

A: There are 26 pay periods for civilians employees. Military participants should contact their payroll office for guidance.

Q6: If later in 2006 I want to make a new contribution election to maximize my contributions for the year, how do I know how much I have contributed to my account to date in 2006?

A: Generally, the leave and earnings statement contains year-to-date information and will reflect your year-to-date TSP employee contributions.

Q7: If I am at least age 50 (or if I will become 50 in the calendar year), may I make catch-up contributions?

A: If you have made or will make the maximum amount of regular employee contributions for the year (\$15,000 in 2006), you may also make catch-up contributions to your TSP account. Catch-up contributions have their own annual limit, which is \$5,000 for 2006.

Catch-up contributions may not be made from pay that is tax-exempt (uniformed services participants), and catch-up contributions do not receive agency matching contributions (FERS participants).

For more information about catch-up contributions, see the OPM Fact Sheet "Catch-Up Contributions" at OPM Website. www.opm.gov.

Q8: I am a civilian employee who will be retiring shortly and will be receiving a lump sum payment for my annual leave and a voluntary separation incentive payment (buyout). Can I have TSP contributions deducted from these payments?

A: No. TSP contributions may not be deducted from these payments because these payments do not constitute basic pay which is defined by law. Neither the Federal Retirement Thrift Investment Board nor your agency has the authority to waive this statutory restriction.

More information about the TSP can be found at <http://www.tsp.gov/index.html>.

2005 W2's on myPay

Your electronic W2 for 2005 is available on myPay at

<https://mypay.dfas.mil/mypay.aspx?flps=W2S~DCPS>

DFAS customers with **myPay** access will be able to retrieve their tax statements electronically up to three weeks sooner than those relying on regular mail delivery. **myPay** is DFAS' secure Web-based pay information system. One of the many benefits of **myPay** is the ability to receive tax statements electronically, saving time and avoiding risks associated with identity theft. **myPay** has a series of security measures with layers of defense against identity theft. The secure technology provided to **myPay** customers meets or exceeds security requirements in private industry worldwide.

Tax statements for DFAS customers are projected to be distributed by the dates in the following table:

Form/Document	Available on myPay	Mailed via the U.S. Post Office (Note 1)
Retiree Annual Statement (RAS)	Dec. 9, 2005	Dec. 17 – 31, 2005
Retiree 1099R	Dec. 16, 2005	Dec. 17 – 31, 2005
Annuitant Account Statement (AAS)	Dec. 16, 2005	Dec. 27 – 31, 2005
Annuitant 1099R	Dec. 16, 2005	Dec. 17 – 31, 2005
VSI/SSB W-2	(Note 2)	Jan. 4 – 5, 2006
Active Duty Air Force, Army, Navy W-2	Jan. 21, 2006	Jan. 24 – 27, 2006
Reserve Air Force, Army, Navy W-2	Dec. 31, 2005	Jan. 4 – 7, 2006
Marine Corps Active & Reserve W-2	Jan. 10, 2006	Jan. 12 – 16, 2006
Civilian employee W-2	Jan. 9, 2006	Jan. 10 – 21, 2006
Savings Deposit Program 1099INT	(Note 2)	Jan. 27, 2006
Vendor Pay 1099	(Note 2)	Jan. 28 – 31, 2006

Notes:

1. Indicates anticipated dates statements/tax forms will be placed in the U.S. Postal System. Actual delivery may vary by location and holiday mail volume.
2. This form or statement is not available on **myPay**.

According to DFAS officials, **myPay** is becoming the standard method of pay and tax statement delivery for those individuals paid by DFAS.

“Not only do our customers get their statements quicker, but more securely,” said Jim Pitt, Electronic Commerce director with DFAS' Military and Civilian Pay Services. “Our customers are discovering that **myPay's** encryption technology is providing the security they demand to protect their sensitive pay and personal information.”

Pitt added that current **myPay** account holders who have forgotten their personal identification number (PIN), as well as new users can request a new PIN on the **myPay** Web site (<https://mypay.dfas.mil>). Users with military e-mail addresses (i.e., .mil) can

receive their new PIN via e-mail. All others will receive their new PIN via mail in approximately 10 working days from the date of request.

FLEXIBLE SPENDING ACCOUNTS (FSA)

For those Army civilians and DOE civilians paid by DFAS, the Flexible Spending Account (FSA) deduction that was not withheld for PPE 12-25-05, pay date Thursday 01/05/06. DFAS is working with the FSA Administrator to have that deduction amount to be spread out over the employee's remaining scheduled pay dates of the year. 25 pay dates for the majority of employees, and a smaller number of pay dates for employees who requested accelerated allotments.

Example: If an employee's annual allotment was \$2600 and their original scheduled pay date amount was \$100, the new pay date amount will be \$104. (\$100 divided by 25 remaining pay dates).

The FSA will email all the affected employees that they have email addresses for (99.5%) with a notification of the problem and the solution.

BRAC Employee Services Guide for Appropriated Fund Employees

BRAC Employee Services Guide advises Army appropriated fund civil service employees of programs and entitlements available to employees affected by the 2005 Base Realignment and Closure (BRAC). This guide is available on the CPAC web page at www.eustis.army.mil/cpac under Hot Items.