

DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY

DEPARTMENTAL PERSONNEL MANUAL SYSTEM

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DPM LETTER: 842- 1

SUBJECT: Requests for Position Coverage under  
Federal Employees Retirement System for  
Law Enforcement Officer and Firefighter  
Positions

DATE: APR 29 1988

This DPM letter establishes Departmental policy for requesting a Secretarial determination that certain positions are covered under the special retirement eligibility for law enforcement officers and firefighters under the Federal Employees Retirement System (FERS). These provisions apply to all operating administrations and the Office of the Secretary. The Office of Inspector General is bound by this policy and the procedures contained herein, except that the Departmental Office of Personnel must forward the OIG's request to the Secretary for a determination.

BACKGROUND

The Federal Employees Retirement System Act of 1986 created FERS, a new retirement system intended to supplement Social Security coverage for Federal employees hired after 1983 and for others who elected to come under it. The law provides for special retirement eligibility for law enforcement officers and firefighters, as is currently the case under the Civil Service Retirement System (CSRS). However, the definitions of these positions for the purposes of FERS changed substantively from the current definitions under CSRS.

The Office of Personnel Management (OPM) published interim regulations to address coverage of the special retirement provisions of FERS concerning law enforcement officers and firefighters. These interim regulations were effective January 1, 1987, and provide the standards to be used by agencies in interpreting the new statutory definitions. Because the law requires agencies to pay the full cost (minus the employee contributions) of the special entitlements, coverage decisions could have a potentially significant impact on an agency's budget. Therefore, OPM's regulations require coverage determinations be approved by the department head rather than the head of any component of the department. This authority is nondelegable.

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When seeking coverage determination under FERS for law enforcement officer and firefighter positions, the OPM regulations require agencies to determine if the primary duties of the positions are so rigorous that employment opportunities should be limited to young and physically vigorous individuals. The OPM regulations envision that a rigorous position involves establishing a maximum entry age and physical qualification requirements. Coverage determination is to be based on the official position description and any other official documentation for the position.

INITIAL DETERMINATION OF POSITION COVERAGE

All requests are to be submitted to the Secretary through the Assistant Secretary for Administration. The submittal should contain the following:

- (1) A memorandum from the Head of the Operating Administration/ Departmental Officer stating the purpose of the request, specifying the positions to be covered, providing justification for a coverage determination, indicating the estimated additional cost for the current fiscal year and immediate succeeding fiscal year to implement the program, and stating that sufficient funds are available for its administration.
- (2) Other official documentation to be submitted with the memorandum includes:
  - (a) Official position description of each covered position reflecting physical activities/rigorous duties, travel, other working conditions (In cases where the position descriptions for more than one position are identical except for organizational location, geographic location and/or position description number, only one position description should be submitted.);
  - (b) A statement for each position description submitted, addressing the primary duties, (including in the case of a law enforcement officer, any Federal criminal laws the employee is responsible for enforcing) warranting coverage determination as a law enforcement officer or a firefighter under FERS (analysis must cover the three factors in the OPM regulations for the definition of primary duties, i.e., duties that are paramount in influence or weight, duties that occupy a substantial portion of the individual's working time over a typical work cycle, and duties that are a regular or recurring part of the job);
  - (c) Detailed statement/justification supporting the proposed maximum entry age; and

- (d) A list of all rigorous and secondary positions included in the coverage determination by title, position description number, and the number of incumbents for each position.
- (3) Reference the appropriate standard or submit a proposed single agency qualification standard which supports the rigorous nature of the primary duties for entering the positions. The standard would cover the type of work and positions, general qualifications, and experience requirements. Authority for approving qualification standards with physical requirements remains with OPM.

#### SUBSEQUENT DETERMINATION OF POSITION COVERAGE

There will be a need from time to time to request coverage determinations because new positions are established and/or covered positions are redescribed. The procedures to be followed will vary depending on the situation. Specifically:

- (1) For newly established positions, if the evidence supporting the coverage determination is the same as previously submitted on other positions, provide a statement to that effect from the Personnel Officer to the Departmental Director of Personnel. Include copies of all new position descriptions and indicate if there is any additional impact on the organization's budget.

If the evidence is different in any way from previously submitted documentation, submit a request following the procedures for initial determinations.

- (2) For redescribed covered positions, if there are no material changes to the primary duties, provide a statement to that effect from the Personnel Officer to the Departmental Director of Personnel. Include a list as required in paragraph (2) (d) and indicate if there is any additional impact on the organization's budget.

If the primary duties have changed, submit a request following the procedures for initial determinations.

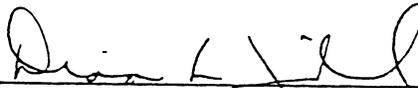
#### NOTIFICATION TO OPM OF COVERAGE DETERMINATIONS

The Departmental Office of Personnel (Retirement Counselor, M-17) will be responsible for proper notification to OPM of coverage determinations in accordance with 5 CFR Part 842.808(a).

#### DOCUMENTATION REQUIREMENTS

The Headquarters Personnel Office of the organization with covered positions must establish a file containing all coverage determinations made by the Secretary and all background material used to support the determination. This documentation shall be

maintained as long as positions meet the definition for law enforcement officer and firefighter as provided in 5 CFR Part 842.802.

  
Director of Personnel