

# Reemployment of Civilian Retirees under the National Defense Authorization Act – Dual Compensation (Salary Offset) Waivers

OHR Standard Operating Procedure  
 Effective Date  
 Most Recently Updated

**DOCUMENT CHANGE HISTORY**  
 Record all SOP versions and revisions

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## 1. INTRODUCTION

This Standard Operating Procedure (SOP) provides guidance for use in the preparation and approval of all Indian Health Service (IHS) dual compensation (salary offset) waivers authorized under the National Defense Authorization Act (NDAA). The NDAA authorizes the IHS Director to grant dual compensation waivers on a temporary basis under certain specified circumstances, without seeking approval from the U.S. Office of Personnel Management. Without the approval of an NDAA dual compensation waiver, a reemployed annuitant's salary will be reduced (offset) by the amount of the annuity received, thereby, creating a financial disincentive for annuitants to resume work with IHS.

This SOP does not pertain to dual compensation waiver requests that must be approved by the U.S. Office of Personnel Management (OPM). If possible, IHS staff are encouraged to consider the use of dual compensation waivers authorized under the NDAA as such waivers may be approved by the IHS Director and may be renewed at IHS as well. Further guidance on dual compensation waivers that must be approved at OPM may be found at: [Dual Compensation Waivers \(opm.gov\)](#)

### A. References

1. [5 USC 8344 – Annuities and pay on reemployment](#)
2. [5 USC 8468 – Annuities and pay on reemployment](#)
3. [Section 1122 of the National Defense Authorization Act for Fiscal Year 2010, Public Law 111-84 \(Pub. L 111-84\)](#)
4. [5 CFR 553 – Reemployment of Civilian Retirees to meet Exceptional Employment Needs](#)
5. [5 CFR 837 – Reemployment of Annuitants](#)
6. [U.S. Office of Personnel Management \(OPM\) Guidance dated 12/9/2011](#)

### B. Definitions

Reemployed annuitant – A former civilian Federal employee who has been reemployed by IHS as a paid employee and who is also receiving an annuity under the FERS or CSRS retirement systems.

Salary Offset – Under the laws governing CSRS and FERS, a reemployed annuitant's salary is reduced (offset) by an amount equal to their retirement annuity. The NDAA waiver authority allows IHS to reemploy retired annuitants without a salary offset.

National Defense Authorization Act – The name for each of a series of U.S. Federal laws specifying the annual budget and expenditures of the U.S. Department of Defense. It is the legislation that houses that authority to grant dual compensation waivers in certain instances.

## 2. ROLES AND RESPONSIBILITIES

**Areas Supervisors/Managers –**

- Determines whether a reemployed annuitant meets the requirements for receiving an NDAA dual compensation waiver.
- Works with Area HR staff and employee to ensure that all documentation and approvals are obtained.

#### **Area HR Staff –**

- Advises Areas supervisors/managers of the use of NDAA dual compensation waivers to reemploy annuitants.
- Establishes and maintains documentation and records containing the justification and each memorandum of understanding for three years.
- Ensures compliance with NDAA dual compensation waiver requirements.
- Assembles and quality reviews package, ensures appropriate approval, and sets effective date.

#### **OHR/IHS Headquarters –**

- Develops IHS dual compensation NDAA waivers in compliance with law, regulation, and policy.
- Reviews all NDAA dual compensation waiver requests and oversees review by IHS senior staff and decision by the IHS director.
- Maintains documentation and records of approved waivers.

### **3. POLICY**

#### **A. Under this authority, the following appointment guidelines apply:**

1. The IHS Director may approve dual compensation (salary offset) waivers under the NDAA authority if necessary for:
  - Functions critical to the mission of IHS,
  - Development, management, or oversight of IHS procurement actions,
  - Support of the HHS/IHS Inspector General's mission,
  - Promotion of training or mentoring of employees,
  - Recruitment and retention of employees, or
  - Response to an emergency involving a direct threat to life or property or other unusual circumstances.
2. The reemployed annuitant must be reemployed on a temporary basis not to exceed one year or less, and appointments must be renewed every year.
3. Annuitants are employed on a part-time basis.
4. Hours worked by any annuitant reemployed under these provisions are limited to 520 hours during the first six months of reemployment; 1,040 hours during any 12-month period, and a total of 3,120 hours total during the period of reemployment. If the reemployed annuitant is involved with training and mentoring employees, the annuitant may work an extra 520 hours in this activity during the period of reemployment.

5. Waivers only apply while the employee is performing the work of the position for which the waiver is granted and only for the period during which the waiver is granted.

B. HR Authority Guidelines:

1. The NDAA provisions do not establish a special hiring authority for annuitants. The NDAA 2010 provisions are a salary offset mechanism, not a special hiring authority for bringing annuitants on-board. IHS must follow the same hiring rules when appointing non-annuitants.
2. IHS should use P.L. 111-84 as the Legal Authority code (LAC) when documenting use of the NDAA dual compensation (salary offset) waiver authority. There are no Nature of Action (NOA) codes to document the use of this dual compensation (salary offset) waiver authority because it is not a personnel action. IHS should use the appropriate NOA and LAC for the appointing authority being used.

#### **4. CASE CONTENTS REQUIREMENTS AND REVIEW PROCEDURES**

1. Waiver requests must be approved prior to appointments and submitted to OHR, Headquarters (Sarah Hochuli/Mary Hicks) at least 15 calendar days prior to proposed effective date.
2. NDAA Dual Compensation Package Contents  
The following documentation needs to be in each case that is sent to OHR Headquarters. Each case must indicate if it is a new appointment, a second, or third request. If it is a second or third request, provide the initial appointment date and any subsequent appointment dates, along with the number of hours of service performed in each appointment period.
  1. Completed NDAA Dual Compensation Waiver Request memo signed by Area Director (Appendix 1)
  2. Signed Memorandum of Understanding (Appendix 2)
  3. Reemployed Annuitant Resume/CV
3. OHR Headquarters staff will send the needed review materials and the request to senior staff and the IHS Director. Upon decision, OHR Headquarters staff will contact the regional human resources point of contact.

#### **5. APPENDICES**

APPENDIX 1-Memorandum template from Area Director to IHS Director

APPENDIX 2 -Memorandum of understanding template between employee and supervisor



DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

Indian Health Service  
Rockville MD 20857

TO: Director, IHS

FROM: Area Director

SUBJECT: Dual-Compensation Waiver for [name of reemployed annuitant]

This is a dual compensation waiver request for (reemployed annuitant) to serve as a [title of position], [pay plan], [occupational series], [grade], [step]. [Mr./Ms name] will be working in the [Area/Service Unit/Office]. [Mr/Ms. name] will [provide details as to what individual will be doing at IHS].

**Background:** Prior to his/her retirement on [date of retirement], Ms./Mr. [name] served as [position]. Describe previous job duties.

#### **Justification for Use of the Authority**

Ms./Mr. [name] may be authorized a dual compensation (salary offset) waiver under the National Defense Authority Action dated January 8, 2010, which permits part-time reemployment of civilian retirees without salary being offset by their retirement annuity. Dual compensation waivers may be authorized for reemployed annuitants for various reasons. Mr./Ms. [name] is being reemployed to [choose appropriate reason(s): train and mentor employees, perform functions critical to the mission of the agency, or respond to an emergency involving a direct threat to life or property of other circumstances].

#### **Fill a Critical Function to the Agency**

IHS's mission is to raise the physical, mental, social, and spiritual health of American Indians and Alaska Natives to the highest level. Mr./Ms. [name] has the skills needed to help further the IHS mission.

The granting of a dual compensation waiver will support the rehiring of this reemployed annuitant. The rehiring of Mr./Ms. [name] is particularly important because:

1. Describe the knowledge, skills, and abilities possessed by the reemployed annuitant that are essential for the work to be performed.
2. Describe how these knowledge, skills, and abilities could not be acquired by another

appointee within a reasonable amount of time.

I recommend that you approve the dual compensation waiver request for Mr./Ms. [name] for part-time employment not to exceed 520 hours the first six months and not to exceed 1,040 hours a year, starting [EOD date] not to exceed [one year from EOD date].

DECISION

Approved \_\_\_\_\_ Disapproved \_\_\_\_\_

[Area Director signature]

Attachments:

Resume, License

Position Description

Memorandum of Understanding

## Appendix 2 - Memorandum of Understanding template between reemployed annuitant and supervisor

### Dual Compensation Waiver under the National Defense Authorization Act Memorandum of Understanding

The U.S. Office of Personnel Management (OPM) authorized agencies to waive the salary offset for certain re-employed annuitants as provided under the National Defense Authorization Act for Fiscal Year 2020, dated December 20, 2019. This authority expires on December 31, 2024. It is unknown whether the authority will be extended beyond that date.

It is understood that annuitants reemployed under this authority will serve under appointments limited to one year or less; however, appointments may be extended in one-year increments pending approval of new waiver requests. It is further understood that hours worked by any annuitant reemployed under these provisions are limited to:

- 520 hours during the first 6 months of retirement;
- 1,040 hours worked during any 12-month period; and
- 3,120 total hours worked during the entire period of reemployment.
- If the annuitant will be reemployed for a dual purpose that includes training and mentoring, he/she is allowed an additional 520 hours total during the reemployment that will not count towards the limits described here.
- Annual leave accrued (regardless of use) will count towards the hours worked limitation. Sick leave accrued and used will count towards the hours worked limitation.

In signing this document, the reemployed annuitant agrees to monitor their hours worked on an ongoing basis. The supervisor also agrees to coordinate with the reemployed annuitant to monitor hours worked and contact their servicing Human Resources point of contact when the hours worked are within 120 hours of the 6-month limitation of 520 hours (i.e., 400 hours worked), of the 12-month limitation of 1,040 hours (i.e., 920 hours worked), or of the total limitation of 3,120 hours (i.e., 3,000 hours worked). To facilitate tracking hours worked on an ongoing basis, they must develop an ad hoc report or utilize the Administrative Time and Leave Record Report found in the Integrated Time and Attendance System.

Further, in signing this document, the reemployed annuitant is aware that their reemployment may impact their Federal benefits and they understand the impact prior to beginning their reemployment.

\_\_\_\_\_  
Reemployed Annuitant                      Date

\_\_\_\_\_  
Supervisor                                      Date