UNITED STATES OFFICE OF PERSONNEL MANAGEMENT

Guide to Voluntary Early Retirement Regulations

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1. The Purpose of VERA

The Voluntary Early Retirement Authority (VERA) provides agencies the option to offer voluntary early retirement when restructuring as well as when downsizing. The voluntary early retirement provisions are the same under the Civil Service Retirement System (CSRS) and the Federal Employees Retirement System (FERS).

The use of VERA is an option for increasing voluntary attrition in agencies that are undergoing substantial organizational change (e.g., reduction in force, reorganization, reshaping, delayering). Besides providing an incentive for employees to voluntarily retire or resign to avoid potential reduction in force actions, the agency may also offer VERA to employees in safe positions that could then provide placement opportunities for employees occupying surplus positions.

- VERA is not the same as a Voluntary Separation Incentive Payment (VSIP), also called a "buyout." The Office of Personnel Management's (OPM) approval of VERA for an agency does not automatically authorize Voluntary Separation Incentive Payments. However, the use of VERA and VSIP together has been shown to significantly increase the acceptance rate for voluntary separations by VERA, optional retirement, or resignation.

- VERA is not the same as Discontinued Service Retirement (DSR). Although the annuity computation formulas and the minimum age and service requirements are the same, DSR is an involuntary action, while VERA is a voluntary action. DSR may not be used in combination with VSIP, which requires a voluntary separation.

2. Statutory Basis for VERA Regulations

Section 1313(b) of the Chief Human Capital Officers Act of 2002 (Public Law 107-296, approved November 25, 2002) authorizes the VERA option under OPM's regulations, as codified in title 5, United States Code (U.S.C.).

(1) 5 U.S.C. 8336(d)(2) includes the statutory VERA provisions for employees covered by the Civil Service Retirement System.

(2) 5 U.S.C. 8414(b)(1)(B) includes the statutory VERA provisions for employees covered by the Federal Employees Retirement System.

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3. VERA Regulations

OPM implements the statutory VERA requirements through regulations published in title 5, Code of Federal Regulations (CFR).

(1) 5 CFR 831.114 covers VERA for employees covered by the Civil Service Retirement System (CSRS).

(2) 5 CFR 842.213 covers VERA for employees covered by the Federal Employees Retirement System (FERS).

- On June 15, 2004, OPM published 5 CFR parts 831 and 842 in the Federal Register at 69 FR 33277, which contain the final VERA regulations (effective on the date of publication).
- The National Archives and Records Administration (NARA) provides a copy of current VERA regulations at http://www.ecfr.gov.
- VERA regulations do not apply to the Department of Defense (DoD). Public Law 108-136, approved November 24, 2003, gives DoD permanent agency-specific VERA and VSIP authority.

(3) Agency Planning for Submitting a VERA Request to OPM

The agency has the right to request VERA from OPM, and to make other decisions concerning how and when to use an approved VERA. Before requesting VERA from OPM, the agency should consider how VERA would assist the agency in reaching a specific goal. For example, the goal could be direct savings by the voluntary reduction of a specific number of positions. Or, the goal could be a voluntary reduction of employees in positions with obsolete skills and the establishment of new positions with different skills.

These planning goals will also help the agency develop the data needed to submit a formal request for the VERA option. Without clear staffing goals, the agency could find, after offering VERA, that too many employees retired, hindering the agency's abilities to perform its essential missions. This is why an agency should not request VERA as a first option if the agency finds itself facing

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what could be a temporary situation, such as a short-term reduction in available appropriations.

If the agency receives a VERA authority, the defined goals will assist the agency in monitoring the authority and, if necessary, to adjust the option while it is underway (for example, to close the VERA option after reaching the agency's workforce targets).

The agency should begin planning for VERA as soon as it appears the agency has a need for early retirement. This ensures that the agency has VERA available in time for both the agency and its employees to make the most effective use of the option. At the activity or subagency level, the organization should recognize that some lead time is required to develop the data to support the VERA request, to submit the VERA request to the agency's headquarters, and then for the headquarters to formally request OPM approval of the VERA. At each level the activity may be asked to clarify the VERA request, or develop additional data.

Also, to ensure that there are no agency delays in planning for VERA offers, an agency with bargaining unit employees should review existing labor agreement(s) and consider whether it has any collective bargaining obligations. The agency should follow any applicable procedures contained in the labor agreement. If, however, an agency finds it has bargaining obligations, it should plan for early negotiations.

In addition, to maximize the benefit of VERA, the agency should allot sufficient time for key matters such as developing activity or subagency policy on the coverage and application of the authority, preparing the human resources staff, counseling employees, holding retirement seminars, computing annuities for those considering retirement, etc. VERA often results in an additional major workload for an agency's personnel staff. For example, the agency must inform eligible employees of the VERA opportunity. The agency must also advise interested employees on the amount of their annuity and related items. This process requires additional time and staff when eligible employees are widely dispersed and/or do not have access to a local personnel office.

Once OPM receives an agency's VERA request, OPM promptly reviews the package to verify that the request is consistent with the controlling statutory and regulatory requirements.

While the VERA request is pending approval at higher levels of the agency or at OPM, the agency should continue planning how the agency will use the option. The agency should also monitor whether any of the assumptions that serve as the basis for the VERA request have changed.

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5. Competitive Sourcing Situations

An agency that is undergoing a competitive sourcing study and anticipates the need for restructuring or workforce reduction to implement the outcome of the study (e.g., contracting out work or establishing a Most Efficient Organization) may initiate a request for VERA authority before the study is completed. Because of the detailed requirements related to a competitive sourcing study and the need for strict confidentiality in the process, it is difficult for the agency to forecast either the outcome of the study or the effects of the study on the agency's workforce. As a result, an agency may not be able to furnish the kind of specific data about the positions that may be covered by a VERA. In this situation, the agency should submit a request to OPM projecting possible outcomes, presenting "if-then" scenarios for either (1) retaining the function; or (2) contracting out. OPM may provide the agency with contingent approval for the VERA option (i.e., the agency's need for VERA would be subject to the outcome of the competitive sourcing study).

Before extending VERA offers to employees, the agency must first notify OPM of the outcome of the competitions. If the competitive sourcing decision will result in the agency contracting the function, OPM will authorize immediate use of the VERA. If the competitive sourcing decision is to retain the function in the agency, the agency must provide OPM with updated information to support the VERA.

Contingent approval benefits agencies because it:

- Provides for early review of the agency's VERA request by OPM;
- Enables both the agency and OPM to respond quickly to a decision on the agency's VERA request when the competitive sourcing study is completed;
- Helps the agency retain skilled workers and maintain productivity in a competitive sourcing situation; and
- Allows the agency to demonstrate positive efforts to assist employees who may be negatively affected by the results of the competitive sourcing study.

6. Agency VERA Decisions

An agency may:

(1) Request VERA from OPM;

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(2) Decide whether to use an approved VERA;

(3) Decide which employees are covered by VERA;

(4) Establish the VERA window period; and,

(5) Determine the number of employees who may retire under the VERA.

7. VERA Request From Agency Headquarters

An agency's request to OPM for VERA must be signed by:

The head of the agency, or a specific designee (i.e., a senior officer or official within an agency who has been specifically designated to sign requests for VERA under a designation from the head of the agency).

The agency should send its VERA request to OPM at:

Deputy Associate Director
Recruitment and Hiring
U.S. Office of Personnel Management
1900 E Street, NW.
Room 6500
Washington, DC 20415

To expedite processing of the VERA, the agency may email or fax its VERA request to 202-606-4430.

For additional guidance on VERA, the agency should contact OPM's Recruitment and Hiring (202-606-0203).

For more information, refer to the checklist for VERA requests in Section 25.

8. Information in VERA Request to OPM

The agency's request to OPM for VERA approval must contain the following information:

(1) Identification of the agency or specified component(s) covered by VERA;

- The most important item for an agency to consider in maximizing the positive benefits of VERA is the agency's ability to accurately target the positions covered by the option. For example, to minimize the disruption of a reduction in force, the agency could target VERA for positions where (1) the incumbent is a displaced employee, or (2) an employee in a continuing position may retire early, allowing the agency to place an employee who would otherwise be involuntary separated in the vacant position.

  The agency planning for a substantial reduction in force or other restructuring action should not open a VERA window to all eligible employees with the goal of counting the remaining staff after the window closes to see if any critical positions are now vacant. The "shotgun" use of VERA may complicate (rather than minimize) staffing shortages resulting from any organizational change. The final result may even hamper the agency's immediate ability to carry out its mission.

(2) Reasons why the agency needs VERA;

- In its reasons for requesting VERA, the agency must include a detailed summary of the agency's personnel and/or budgetary situation that will result in an excess of personnel because of a substantial delayering, reorganization, reduction in force, transfer of function, or other workforce restructuring or reshaping. Also, the agency's reasons for VERA must be consistent with its human capital goals.

  If the agency requests agencywide VERA, the agency must summarize how its plans for organizational change will affect all its employees and components. However, the overall summary to OPM in support of agencywide VERA does not have to identify each location, organization, or group of employees that would be covered by the VERA.

  After OPM approves an agency's request to offer VERA agencywide, the agency has the right to restrict coverage of the authority. OPM's approval letter to the agency covers the agency's right to manage its VERA.

  For example, with an agencywide VERA the agency may offer early retirement to all its employees. At its option, the agency may limit VERA offers to employees on the basis of location, organizational unit, occupational series, grade, and/or any similar nonpersonal and objective factor. The agency may also offer VERA during a single window period, or during multiple window periods.

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An agency may request OPM contingent approval of a VERA request that is based upon a pending competitive sourcing study. Since the agency will not have complete information until completion of the study, for contingent approval of VERA the agency should submit information based upon a worst case situation affecting the positions covered by the VERA request. The agency will subsequently provide OPM with updated information when it finalizes the competitive sourcing decision.

(3) The date(s) on which the agency expects to implement the substantial delayering, reorganization, reduction in force, transfer of function, or other workforce restructuring or reshaping;

(4) The time period(s) during which the agency plans to offer VERA;

(5) The total number of non-temporary employees in the agency or specified component(s) covered by the VERA;

(6) The total number of non-temporary employees in the agency or specified component(s) covered by the VERA who, without the VERA option, will be involuntarily separated, downgraded, transferred, or reassigned as a result of the substantial delayering, reorganization, reduction in force, transfer of function, or other workforce restructuring or reshaping;

(7) The total number of non-temporary employees in the agency or specified component(s) covered by the VERA who are eligible for voluntary early retirement;

(8) An estimate of the total number of non-temporary employees in the agency or specified component(s) covered by the request for VERA who are expected to actually retire during the period covered by the request for VERA;

- A critical step for the agency in evaluating the effectiveness of a potential VERA is to first determine the number of employees eligible for VERA, estimate the number of employees who may actually retire early, and then assess the results of allowing these employees to retire by VERA (e.g., savings from a net reduction in personnel, positions available to restaff with different skills, placement opportunities for displaced employees). In projecting savings or attrition from VERA, the agency should not assume that all or even most of the employees eligible for VERA will actually retire. However, when using VERA in conjunction with VSIP, most agencies can expect a higher acceptance rate of the VERA option.

(9) A description of the types of personnel actions that the agency anticipates may be necessary as a result of the agency's need for VERA.

Examples of personnel actions include separations, transfers, reassignments, and downgradings.

9. Basis for OPM Approval of VERA Request

OPM may approve an agency's VERA request if OPM determines that the agency (or a component) meets the following conditions:

(1) The agency is undergoing substantial delayering, reorganization, reduction in force, transfer of function, or other workforce restructuring; and

(2) A significant percentage of the agency's employees are likely to be involuntarily separated or demoted because of one or more of the reasons in (i) above, or the agency has identified employees in positions that are becoming surplus or excess to the agency's future ability to effectively carry out its mission.

OPM may require an agency to forward overdue interim and final reports on a previous VERA before OPM approves a new VERA for the agency. OPM's approval letter to the agency contains the VERA reporting requirements.

10. OPM Evaluation of VERA Request

OPM will evaluate an agency's VERA request based upon:

(1) A specific request from the agency for the VERA option;

(2) A VSIP implementation plan, which must outline the agency's intended use of both VERA and VSIP; or

(3) The agency's human capital plan, which must outline its intended use of both VERA and VSIP, and the changes in organizational structure that the agency expects to make as the result of projected separations for both VERA and VSIP.

Regardless of the method used, the agency's VERA request must include all of the information covered in Section 8 above.

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11. Maximum Time Period for VERA Option

OPM may approve an agency's VERA request to be effective through:

(1) The entire period of the agency's substantial delayering, reorganization, reduction in force, transfer of function, or other workforce restructuring or reshaping; or

(2) The initial portion of the period covered in subparagraph (1) with a requirement for subsequent information and justification if the period covers multiple years.

12. General Eligibility for VERA

To be eligible to retire under VERA, an employee must:

(1) Meet the VERA minimum age and service requirements (i.e., the employee has completed at least 20 years of creditable service and is at least age 50, or has completed at least 25 years of creditable service regardless of age);

- The minimum age and service requirements are set by statute in 5 U.S.C. 8336(d)(2) for CSRS employees, and in 5 U.S.C. 8414(b)(1) for FERS employees. OPM has no authority to waive either the minimum age or service requirement for VERA eligibility.

(2) Have been continuously employed by the agency for at least 31 days before the date that the agency initially requested OPM approval of VERA;

(3) Hold a position that is not a time-limited appointment;

(4) Have not received a final removal decision based upon misconduct, or unacceptable performance;

(5) Hold a position covered by the agency's VERA; and

(6) Retire under the VERA option during the agency's VERA window.

13. Employees on Active Duty in the Armed Forces

An employee on active duty in the Armed Forces who would otherwise be eligible for a VERA offer will have 30 days following restoration to the agency to accept or reject the agency's offer of VERA.

The restored employee has the right to accept or reject the agency's offer of VERA even if the authority approved by OPM has expired.

14. Use of Annual Leave to Reach Initial Eligibility for an Immediate Annuity

An employee has the right to use accrued annual leave and remain on the agency's rolls past the effective date of reduction in force separation in order to:

(1) Gain title to an immediate annuity; and/or

(2) Continue health benefits coverage into retirement.

An employee who will be separated by adverse action after declining geographic relocation to a position in a different local commuting area has the same right to use annual leave to reach initial eligibility to an immediate annuity; and/or continuation of health benefits participation into retirement.

The agency may not retain the employee past the date the employee first becomes eligible for an immediate annuity, and/or continuation of health benefits into retirement. When applicable, the agency must retain the employee long enough to meet the initial eligibility requirements for both an immediate annuity and continuation of health benefits into retirement.

An employee is required to have enough annual leave to cover any part of the day on which the employee establishes eligibility for benefits under the authorizing statute. For example, an employee needs 30 workdays of annual leave to reach first eligibility for voluntary early retirement, but the employee has accumulated annual leave that only covers 29 workdays and one hour on the 30th day. The employee has enough leave to establish title to an immediate annuity because the one hour of annual leave covers part of the 30th day (i.e., the day eligibility is established).

There is no language in either the authorizing statute or in regulations that provides an employee with the right to always choose between VERA or discontinued service retirement. The law simply provides that the displaced

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employee has the right to use annual leave to gain title to an immediate annuity. This means that an agency may properly limit a displaced employee to a discontinued service retirement, rather than VERA, as the basis to establish initial eligibility for an immediate annuity.

15. VERA Offers Must Be Consistent With OPM-Approved Authority

An agency may offer VERA only as authorized in the agency-specific authority approved by OPM.

An agency may not offer or process VERA actions beyond the expiration date stated in the VERA approved by OPM.

An agency may not offer VERA to employees not covered in the VERA approved by OPM.

16. Organizational Basis for VERA Offers

An agency may offer VERA only on the basis of organizational considerations such as one or more of the following nonpersonal factors:

(1) Organizational unit(s);

(2) Classification series, occupations, and/or grade levels;

(3) Geographical location(s);

(4) Specific VERA window(s);

(5) Skills, knowledge, or other factors related to a position; or

(6) Any combination of the five factors in subparagraphs (i) through (v) above that the agency determines to be appropriate and necessary to implement the agency's VERA.

17. Selecting Employees for VERA

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After an agency opens a window for a VERA, the agency may limit VERA offers by:

(1) An established opening and closing dates that the agency announces to employees at the time of the initial VERA offer; or

(2) Receipt of a specified number of applications for VERA, provided that, at the time of the initial offer, the agency notified employees of its right to limit retirements on that basis.

If the agency finds that the situation justifying the VERA has changed, at its option the agency may subsequently establish a revised closing date for the VERA window. The agency may also decrease or increase the number of VERA applications it will accept. Both the amended VERA closing date and revised number of VERA applications must be covered by the VERA authority approved by OPM.

If the agency revises the closing date of its VERA window and/or revises the number of VERA applications it will accept from eligible employees, the agency must announce the new VERA closing date and/or ceiling on VERA applications to the same group of employees included in the agency's original VERA announcement. The agency may also offer the revised VERA to a different group of employees who are covered by the VERA approved by OPM.

If the agency plans to terminate the VERA window before the original planned expiration date, the agency should consider allowing eligible employees to change the effective date of their VERA retirements to precede the new expiration date of the window.

18. Additional Options to Select Employees for VERA

(1) At its option, the agency may administratively implement a fair and objective procedure to determine which employees may separate for a VERA when more employees apply for a VERA than the agency can accommodate.

(2) As another option, the agency may administratively implement a policy that stipulates when and under what circumstances employees will be allowed to withdraw their VERA application. The policy may specify that:

(a) Employees will be allowed to subsequently decline separating by VERA even after signing the applicable forms;

(b) Employees will not be allowed to subsequently decline separating by VERA after signing the applicable forms; or

(c) The decision to allow an employee to subsequently decline separating by VERA after signing the applicable forms will be made on a case by case basis for a reason such as hardship.

19. Waiver of the Usual Participation Requirement to Continue Health Benefits into Retirement

An agency offering VERA or VSIP may be covered by a waiver of the usual participation requirement to continue health benefits into retirement.

To continue Federal health insurance into retirement, employees must generally meet a requirement of being enrolled in the Federal Employees Health Benefits Program for at least 5 years prior to retirement, or since their first opportunity to enroll. Otherwise, the employee must request that OPM waive the 5-year participation requirement.

The agency's benefits officer can assist employees in requesting a waiver from OPM. The benefits officer can also determine if an employee who is retiring from an agency with current VERA or VSIP authority is eligible for a blanket waiver of the 5-year participation requirement under Benefits Administration Letter (BAL) 04-208, dated September 8, 2004.

BAL 04-208 covers "Federal Employees Health Benefits Program: Participation Requirements for Employees Retiring During a Period of Voluntary Separation Incentive Payments or Voluntary Early Retirement Authority." BAL 04-208 explains OPM's policy on waivers of the usual participation requirements for employees who retire during a period during which their agency has statutory authority to offer VERA or VSIP.

BAL 04-208 is available from OPM's website at www.opm.gov.

20. Ensuring that VERA Retirements are Voluntary

The agency is responsible for ensuring that employees are not coerced into retiring under a VERA, or that the employee's decision to retire under the VERA was not based on erroneous or misleading information.

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When announcing an opportunity to retire under a VERA, the agency should inform its employees that VERA is a voluntary action by the employee. If the agency finds that an employee was coerced into VERA retirement, the agency has the responsibility to take appropriate corrective action. An employee who retires under VERA, but who believes that the retirement was involuntary, may appeal the basis for the retirement to the Merit Systems Protection Board.

21. Processing VERA Retirements

Chapter 30 of the "Guide to Processing Personnel Actions" contains instructions for agencies to process personnel actions for employees who retire under VERA.

The Guide is available on OPM's website at www.opm.gov.

OPM's letter to the agency approving the VERA option also contains the Nature of Action Codes used to document VERA retirements.

Chapter 43 of the "CSRS and FERS Handbook" also contains information used by agencies to process employees' applications for VERA.

The Handbook is available on OPM's website at www.opm.gov.

22. Agency Management of VERA

After OPM approves a VERA, the agency is required to notify OPM immediately if there are any subsequent changes in the conditions that served as the basis for OPM approving the VERA.

In addition to a VERA approval letter, OPM also provides the agency with guidance covering proper management of the VERA option.

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24. OPM Oversight of VERA

OPM may modify or terminate an agency's VERA if OPM determines that the agency:

(1) Is no longer undergoing the substantial delayering, reorganization, reduction in force, transfer of function, or other workforce restructuring that was the basis for OPM's approval of the VERA; or

(2) Did not administer the authority in a manner that is consistent with applicable law or regulation.

25. Checklist for VERA Request

Checklist for VERA Requests

This checklist provides agencies with a framework for submitting requests to OPM for Voluntary Early Retirement Authority (VERA). An agency requesting OPM approval of VERA for its employees should complete each section of this template to ensure that its request is properly submitted. All of the information covered in this VERA template is required by statute or regulation.

Agency: _____

Component(s): _____

Date of Request: _____

1.a. ___ Request is signed by the head of the agency or a specific designee with delegated authority.

1.b. ___ Request identifies the agency or organizational unit(s) for which a determination is requested.

2. ____ Clearly states reason(s) why the authority is needed:

This should describe the circumstances leading to the request and explain why the agency believes that VERA will be an appropriate strategy for making the required adjustments in the workforce. This must include a detailed summary of the agency's personnel and/or budgetary situation that will result in an excess of personnel because of a substantial delayering, reorganization, reduction in force, transfer of function, or other workforce restructuring or reshaping.

3. ____ Identify the date on which the agency expects to effect the substantial delayering, etc.

The date provided should not be earlier than the ending date provided in number 4 below.

4. ____ Show the time period during which the agency plans to offer VERA.

5. ____ Provide the total number of non-temporary employees in the agency or component of the agency undergoing change.

If you are requesting VERA for only a part of your organization, provide the data for that portion of the organization only. Do not provide the number of permanent employees for the entire organization.

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6. ____ Provide the total number of non-temporary employees in the agency who may be involuntarily separated, downgraded, transferred, or reassigned as a result of the agency's situation.

   If you are requesting VERA for only a part of your organization, provide the data for that portion of the organization only. Do not provide this number for the entire organization.

7. ____ Provide the total number of employees in the agency/organization who are eligible for early retirement.

   If you are requesting VERA for only a part of your organization, provide the data for that portion of the organization only. Do not provide the number for the entire organization. Also, for this purpose, you should exclude all employees who are eligible for optional retirement.

8. ____ Include an estimate of the total number of employees in the agency/organization who are expected to take early retirement. The number is_____.

   If you are requesting VERA for only a part of your organization, provide the data for that portion of the organization only. Do not provide the number for the entire organization.)

9. ____ Provide a description of the types of personnel actions anticipated as a result of the agency's need for VERA.

   This information need not be comprehensive. It should, however, be detailed enough to show how VERA will assist you in accomplishing your restructuring, reshaping, and/or downsizing plans—and the personnel actions you expect to take in concert with VERA to accomplish your goals.

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