



APRIL 8, 2014
TOP NEWS STORIES

HOUSE GOP BUDGET PROPOSAL: CUT FEDERAL BENEFITS, REDUCE WORKFORCE

Last week Rep. Paul Ryan (R-WI), chairman of the House Budget Committee, [released](#) the 2015 House Republican budget, entitled [The Path to Prosperity](#). The budget has already cleared committee and will receive a vote on the House floor this week.

The budget proposal contains, or expands upon, many provisions included in past budget proposals by Rep. Ryan that trim federal employment and retirement benefits.

The Ryan budget plan proposes eliminating the FERS annuity supplement and eliminating the student loan repayment program.

The budget proposal would require employees to contribute to half of their FERS/CSRS and increases defined benefit contributions to 6.35% up from 0.8%. Congress recently increased contribution rates for new hires in 2013 to 3.1% and those hired in 2014 to 4.4%.

The budget also calls for a 10% reduction in the civilian and contract workforce, while exempting national security positions, and by allowing one employee to be hired for every three that retire.

The budget also claims to balance the federal balance sheet in ten years through significant cuts to social safety net programs, including Medicare, Medicaid, food stamps, and other programs.

PROGRESS AND PLANS FOR ADDRESSING GOVERNMENTWIDE MANAGEMENT CHALLENGES – GAO REPORT

A new [report](#) from the Government Accountability Office (GAO) explores areas of commonality between the President's Management Agenda and GAO's High Risk Program.

The report examines progress and plans for addressing government-wide management challenges, and offers recommendations to drive continued improvement in those areas.

In particular, some of the management challenges explored relate to: using information technology to better manage for results; addressing improper payments; expanding strategic sourcing; strengthening strategic human capital management; and improving the Department of Defense's weapon systems and services acquisitions.

GAO also listed developing a comprehensive inventory of federal programs, enhancing the use of collaborative mechanisms, effectively implementing strategic reviews, and improving capacity to gather and use better performance information as areas that would benefit from high level attention on major performance management challenges.

“Lasting success in addressing the difficult and longstanding issues on the Presidents Management Agenda will hinge on effective implementation, including sustained top leadership attention,” the report summary states.

To access the full report, GAO-14-436T, Government Efficiency and Effectiveness: Views on the Progress and Plans for Addressing Government-wide Management Challenges, [click here](#).

DHS IG SAYS DEPARTMENT NEEDS TELEWORK DISASTER PLAN

A new [report](#) from the Department of Homeland Security (DHS) inspector general found that teleworking capabilities for the department’s employees could be knocked offline during an emergency if the two data centers supporting the department’s virtual desktop system go down.

The DHS IG recommended that the department implement disaster recovery capabilities for the teleworking service in order to ensure all DHS employees can access the system during emergency or disaster situations.

The report was issued as part of an assessment of DHS’ Workplace as a Service (WPaaS) program, which the department has used to enhance telework capabilities and facilitate a move to cloud-based services.

The DHS WPaaS service is supported by two data centers. Yet interoperability issues between the two centers meant that if there was, for example, a power outage at one of the data centers, WPaaS workers whose virtual desktops were hosted by that center would have to wait for the data center to come back online before accessing their systems.

As a result, the IG recommended that DHS find an alternative processing site for WPaaS and amend their contingency plans for restoring access to the systems to including a strategy to recover and perform system operations at an alternative processing site for an extended period.

To access the full DHS OIG report, OIG-14-55, DHS’ System to Enable Telework Needs a Disaster Recovery Capability, [click here](#).

FROM THE HILL CONGRESSIONAL EYE TURNS TO VETERANS AFFAIRS

Congressional representatives are offering legislation related to veterans benefits and the management of the Department of Veterans Affairs (VA).

One piece of VA legislation receiving high level attention in Congress would allow the VA Secretary to [fire career Senior Executives](#) “for performance” and with no due-process.

That legislation ([H.R. 4031](#); [S. 2013](#)) has received the attention of House Speaker John Boehner (R-OH) and potential 2016 presidential candidate Sen. Marco Rubio (R-FL), along with House Veterans Affairs Committee chairman Rep. Jeff Miller (R-FL), and was [promoted](#) with a recent [press event](#) with the bill sponsors and several veterans organizations at the Capitol.

In response to the press event, Carol Bonosaro, President of the Senior Executives Association (SEA) [criticized the legislation](#) because it “ does not achieve the goal of accountability and instead is a quick fix sound-bite that does not address the very real issues of backlogs and access to care.”

In response to H.R. 4031, Rep. Mike Michaud (D-ME), the ranking member of the House Veterans Affairs Committee, introduced [H.R. 4399](#), a bill that [creates requirements](#) for organizational performance goals for VA senior executives and seeks to strengthen the performance management system at the VA.

House lawmakers have also focused on [cybersecurity issues](#) at the VA, with a prescriptive information security bill ([H.R. 4370](#)) offered by Rep. Jackie Walorski (R-IN) gaining traction. The legislation provides specific direction for the VA on steps it needs to take to secure its network, systems and websites, defend against vulnerabilities, upgrade and replace outdated systems, and ensure compliance with federal, OMB, and NIST standards and guidance.

That Congress would propose such specific directions for the VA, whether on cyber and information security issues or the performance management system for the department's Senior Executives reflects a perspective in Congress that the agency cannot or will not take actions on their own that Congress believes are necessary.

CASE LAW UPDATE

FEDERAL EMPLOYEE KILLS SPOUSE AND SELF LEADING TO INHERITANCE DISPUTE AT MSPB

A federal employee covered under the Federal Employees' Retirement System ("FERS") designated his wife as his only beneficiary for any contributions to his retirement account that were payable at his death. The employee and his wife did not have children together, but both had adult children from previous relationships. On October 15, 2011, the employee killed his wife and then, apparently, took his own life as well. The employee's wife's son, on behalf of her estate, applied for a lump-sum credit based on the employee's service, but the Office of Personnel Management ("OPM") denied the application, finding that the employee's wife predeceased the employee, meaning that because she died before the employee, she could not come into possession (as a beneficiary) of any contributions to his retirement account payable at death. OPM found that the employee's children, rather than the employee's wife's children, were the beneficiaries of the lump-sum benefit. The wife's estate appealed to the MSPB, and an MSPB administrative judge applied Virginia's Slayer Statute to find that the employee, because he was the "slayer," legally predeceased his wife, and therefore the wife's estate was entitled to the lump-sum benefit. OPM petitioned the full Board for review, and on April 1, 2014, the Board reversed the initial decision and affirmed OPM's final decision denying the application.

Because federal statutes and regulations regarding FERS do not address whether FERS lump-sum death benefits can be paid to a person who became entitled to the benefit through a person who intentionally killed another person (otherwise known as a "slayer," as referenced in common law), the Board turned to the law of the state where the presumed felony occurred (Virginia) to determine what effect the so-called "Slayer Statute" would have on the eventual recipient of the lump-sum benefit.

The Board focused on Virginia cases where courts have examined the Slayer Statute in relationship to the common law principle by which a felon party forfeited, or gave up, his estate through a "corruption of blood." A corruption of blood, according to an observation by the United States Supreme Court in *United States v. Brown*, 381 U.S. 437, 441 (1965), means that the attainted party's heirs could not inherit his property.

As the Board noted, however, "corruption of blood" and forfeiture of estate on conviction of felony was expressly abolished by Virginia statute. VA Code Ann. § 55-4 (2011) provided that "no suicide, nor attainder of felony, shall work corruption of blood or forfeiture of estate." Therefore, a felon's children are not deprived of their right to inherit property just because of a parent's status as a felon. Virginia's Slayer Statute, the Board observed, "merely prohibits a slayer from acquiring additional property rights as a result of his wrongdoing, which his heirs could subsequently claim through him." In other words, the Virginia Slayer Statute does not deprive a slayer's heirs of the right to inherit property which properly belonged to the slayer, and it does not force a slayer to forfeit property he already properly owned before the slaying.

Because the employee already owned his FERS contributions and did not acquire any additional property right in his FERS contributions when he committed the felonious act of killing his wife, he continued to

own those contributions when he died. The Board stated that the contributions would then ostensibly pass to his named beneficiary, but since his named beneficiary (his wife) had predeceased (died before) him, the contributions would pass to his heirs under the order of precedence memorialized at 5 U.S.C. § 8424(d).

The order of precedence relevant to this case, and codified at 5 U.S.C. § 8424(d) is as follows: (1) beneficiary; (2) widow or widower; (3) child or children. Because the employee's beneficiary, who would also have been his widow, predeceased the employee and therefore could not inherit, the lump-sum benefit passed to the third heirs in the order of precedence, the employee's children (rather than the wife's children). Therefore, the Board agreed with OPM's finding that the credit did not belong to the wife's estate.

For the above stated reasons, the Merit Systems Protection Board reversed the MSPB administrative judge's initial decision as an incorrect application of the Slayer Statute, and affirmed OPM's final decision denying the wife's estate's application and naming the employee's two adult sons as the beneficiaries of the employee's lump-sum benefit.

[You can read the full case, *Junior F. Whetzel III v. Office of Personnel Management*, here.](#)

This case law update was written by [Conor D. Dirks](#), associate attorney, [Shaw Bransford & Roth, PC](#).

For thirty years, Shaw Bransford & Roth P.C. has provided superior representation on a wide range of private sector and federal employment law issues, from representing federal employees nationwide in administrative investigations, disciplinary and performance actions, and Bivens lawsuits, to handling security clearance adjudications and employment discrimination cases.

DOLLARS & SENSE

FEDERAL BENEFICIARY FORM REVIEW, PART 2

The beneficiary forms that you may have filed in the past include:

- [SF 2808 \(If you are CSRS\)](#)
 - This form represents the contributions (mandatory withholding) you paid into CSRS since you began your retirement covered career. It may also include any deposits/redeposits you may have paid for any prior Federal civilian or military service.
 - For many CSRS employees, that's easily a 6-figure dollar amount. This money is used by OPM (along with all the agency contributions) to pay CSRS pensions. This money is also used to pay any potential survivor benefits. If you were to pass today, this money would first be used to pay any survivor benefits to a spouse and/or dependent children. But if there weren't any survivor benefits payable, this money (your contributions... not the agency contributions) would be paid out to whoever is on this form. This form is also used to determine who gets your final retirement check if you die in retirement.
 - If this form exists, it would be on file at OPM (whether you're an employee or a retiree). If you don't have a copy of this form, you can request it from OPM. However, it may be easier just to submit a new form (as mentioned earlier) and don't worry about the form from the past. This is true with any of these beneficiary forms. Any new form submitted will take precedence. The SF 2808 should be sent directly to OPM for certification. The mailing address is on the form.

- [SF 3102 \(If you are FERS or a FERS Transferee\)](#)
 - Similarly to what was explained above for CSRS employees, this form represents the contributions you paid into FERS (including deposits/redeposits) since you began your retirement covered career. If you were previously under CSRS but eventually elected to

- transfer to FERS, any SF 2808 form you may have filed in the past becomes obsolete. It is recommended that FERS Transferees submit a new SF 3102 if they haven't done so already.
- The mandatory contribution to FERS is much less than CSRS, so there's much less in this bucket. Typically, after 20+ years of FERS service, a FERS employee may have somewhere between \$20k to \$30K of contributions (including interest).
 - Unlike CSRS employees, FERS employees would file this form with their agency benefits office. Of course, once you retire under FERS, these forms would be filed and maintained by OPM for the rest of your life.
 - Whether you are CSRS or FERS, your contributions to the retirement system are usually reduced to \$0 by the time you have been receiving a pension for 3 or 4 years... although you receive your pension for the rest of your life. But as mentioned previously, even if there isn't any more money in this CSRS/FERS bucket, these forms are also used to determine who receives your final retirement check when you pass.
- [SF 1152 Unpaid Compensation](#)
 - This is the "most dangerous" form on this list. Whether you are CSRS or FERS, this SF 1152 is used by your agency payroll office to determine who receives your last paycheck if you were to pass while employed. It also determines who receives the lump-sum payment of any unused annual leave you currently have on the books.
 - The reason why I think this form is "dangerous" is because it is often overlooked. This form is usually completed by most new employees during their on-boarding process, but is often overlooked years later when life changes. After divorces, marriages, birth of children, etc... most employees are quick to update their life insurance and TSP beneficiary forms, but they forget all about this SF 1152 (which resides in their Official Personnel Folder).
 - If you were to pass away today, how angry or upset were your current spouse or former spouse (or ex-boyfriend/girlfriend) if your former spouse was still listed on that SF 1152 from years ago? There is nothing that your current spouse could do about it... the person on that beneficiary form would be entitled to the money from your agency. My advice... review these forms (if previously filed) and file new ones accordingly if necessary. Remember... any form you submit today will supersede the forms from the past.
 - Once you retire and receive your last paycheck & lump-sum annual leave payment, don't worry about this form anymore.
 - [SF 2823 Federal Employees Group Life Insurance](#)
 - If you have FEGLI, this form is used to determine who would receive the "tax free" payment of your coverage. This form is received and maintained by your agency benefits office. It remains in your OPF until you retire, and then it's transferred to OPM along with your retirement paperwork.
 - Whether death in service OR death in retirement, if there is an SF 2823 on file, this is one of the quickest items that can be paid out to your beneficiaries. Everything else might take a bit longer for OPM to process. Upon the death of a Federal employee or retiree, my advice to any beneficiary would be to file for this first.
 - [TSP-3 Thrift Savings Plan](#)
 - Last (but not least), this form determines who will inherit your TSP and is received and maintained by TSP. If you leave your TSP to a spouse, they will be allowed to keep the money in TSP and will be subject to the same management costs. If you leave your TSP to someone other than a spouse, they will not be allowed to keep the money in TSP. This should be discussed with your beneficiaries so you can assist them with having a plan to transfer this money without dealing with potential tax issues until they're ready to use the money.

- It's not a bad idea to discuss all of these beneficiary forms with an estate planner. An estate planner can not only assist you with Wills and Trusts, but they can also help you decide whether you should use these forms to designate people directly OR to designate direct to a Trust.
- When submitting these forms, the appropriate receiving office will certify it. Be sure to obtain copies once these are certified so you can file them in your own "fire-proof" box at home. If you do this, these forms can be used by the people you care about in the event of your death (even if your agency loses their copies). With these forms safely on file at home, the people you care about will know there are potentially four things they can claim from the Federal government whether you pass as an employee, retiree, or separated employee (waiting for a Deferred or Postponed retirement).

[Read Part I of this article here.](#)

James Marshall is a federal retirement benefits specialist and the owner of Federal Retirement Planning LLC. For more information, please visit the [Federal Retirement Planning LLC website](#).

NEW BLOG POST: THE PERFORMANCE PICKUP 3 DATA POINTS FEDERAL ORGANIZATIONS WISH THEY HAD NOW

We all have so much data coming at us. Where once people were data starved, we're now data stuffed. But strangely, some of the most important data points are still missing.

Here are three data points Federal managers have told us they wish they could analyze now, if only they could get their hands on it:

1. Attitudinal and Behavioral Changes – Both the [Centers for Medicare and Medicaid \(CMS\)](#) and The Department of Veterans Affairs (VA) have promoted outcome measures as a way of measuring health quality. New payment policies for CMS area are tying outcome measures like Hospital Readmissions and Pressure Ulcers to hospitals bottom line, a major step forward in the way we pay for healthcare in this country. VA encourages patients and their families to compare outcomes at various hospitals and facilities, encouraging the use of data in important individual medical decisions. All this is great news from an analytics and results perspective, yet we are still falling far short of what's possible. Because individual behavior is so critical to improved health, only enhanced behavioral data would allow Federal health providers to understand if their messaging, strategies and outreach are really effective. We know this data is available and individual private information can be removed, can we find a way to get it and use it?

2. Real Time Analytics - [Explorys is a health analytics company for health-care companies to store, access and make sense of their data.](#) Accessing real time information on current blood-sugar and oxygen levels, weight, heart rates and respiratory health could allow VA, Medicare, and other government health entities to predict things like hospitalizations, missed appointments and readmissions and proactively reach out to patients. Good data is supposed to allow organizations to focus on the critical patients, issues and conditions, with better real time analytics, the best health interventions would be possible with reduced costs.

3. Integrating separate data sets from social, behavioral, genetic, nutrition and environmental factors. [Carolinas HeathCare System is using multiple data points to predict chronic, expensive and growing issues like diabetes and asthma.](#) Everything from violent-crime rates to educational attainment have now been demonstrated as factors in physical and mental health and well-being. This broader view of analytics for more predictive information is being used in University studies at the Metropolitan Studies Program at the University of North Carolina. The government's integration of similar data sets could help ensure better, earlier treatment with more well-rounded comprehensive information.

This blog post was written by Jon Desenberg, [The Performance Institute](#).

GEICO'S GOOD STUFF OPM RETIREMENT BACKLOG SHRANK IN MARCH

GEICO's Good Stuff is a column series highlighting great stuff happening in the federal community.

The number of backlogged retirement claims at the Office of Personnel Management (OPM) fell in March, as the agency was able to process more claims than it took in.

According to [new figures](#) from OPM, the backlog of unprocessed claims stood at 18,573 at the end of March, down from 23,554 at the end of February.

The agency expects the overall claims backlog to trend downward over the next few months, but still has thousands of unprocessed claims pending after sequestration and cuts to overtime slowed the process last year.

Last month OPM Director Katherine Archuleta unveiled a [Strategic IT Plan](#) for the agency to modernize their systems, including retirement processing.

These good government stories are brought to you by GEICO. If you think this is good, click [here](#) and get a free quote – you could get some good news yourself!

HEARD INSIDE THE BELTWAY

I think the American people should know that the members of Congress are underpaid. I understand that it's widely felt that they underperform, but the fact is that this is the board of directors for the largest economic entity in the world.

Rep. Jim Moran (D-VA) [during](#) a Legislative Branch appropriations subcommittee hearing

WEEKLY LEADERSHIP REFLECTION

Be and look prepared. Be a man on integrity. Never break your word. Don't have two sets of standards. Stand up for your players. Show them you care on and off the court.

Red Auerbach