



OCTOBER 14, 2014
TOP NEWS STORIES

OPM REPORT OFFERS INSIGHTS INTO MILLENNIAL FEDS

The Office of Personnel Management (OPM) released last week a [first-ever report on millennials in the federal workforce](#).

The [report release](#) was the first among many OPM will release in the coming weeks featuring breakdowns of data from the Federal Employee Viewpoint Survey (FEVS).

Millennials are those defined as being born after 1980. Currently over 336,000 people under the age of 33 work for the federal government, or about 16% of the total workforce.

OPM produced an [infographic](#) highlighting key data points about millennials working for the federal government.

86 percent of millennial FEVS respondents said the work they do for the government is important, and 80 percent said they see how their work relates to their agency's goals and priorities. Nearly two thirds of millennial feds (61%) are satisfied with their jobs and 62% said they would recommend their organization as a good place to work.

"Ensuring that the Federal government reflects the many diverse communities it serves has been one of my top priorities during my tenure as OPM Director, and I am delighted that we are able to provide this report," said OPM Director Archuleta. "The Federal government is a great place for millennials to work. The survey results show that they like the work they do, the people they work for, and the valuable opportunities that the Federal government provides. We are looking forward to using the FEVS results to continuously improve and make the Federal government a model employer for all, including this critical population of current and future Federal employees."

Director Archuleta also provided additional information about OPM's efforts to recruit millennials into federal service [on the OPM blog](#).

\$486 MILLION AFGHAN AIR FLEET, U.S. TAXPAYER FUNDED, SCRAPPED FOR \$32,000

American taxpayers, via the Department of Defense, spent \$486 million for twenty airplanes for the Afghan Air Force.

Following continuous and severe operational difficulties, sixteen of the planes were scrapped by an Afghan construction company for \$32,000 – about 6 cents a pound.

Last week, John Sopko, the Special Inspector General for Afghanistan Reconstruction, [wrote](#) to the Secretaries of Defense and the Air Force, and to the U.S. Commanders in Afghanistan and the U.S. Central Command, asking for details.

“I am concerned that the officials responsible for planning and executing the scrapping of the planes may not have considered other possible alternatives in order to salvage taxpayer dollars,” Sopko said in his letter.

Maj. Brad Avots, a Pentagon spokesman, said the Defense Department destroyed the G222s to “minimize impact on drawdown of U.S. forces in Afghanistan,” [according to The Washington Post](#). Avots also “added that the agency strives to ensure responsible stewardship of taxpayers’ dollars.”

OPM ISSUES REPORT ON USE OF OFFICIAL TIME

Last week the Office of Personnel Management (OPM) released a report entitled [Labor-Management Relations in the Executive Branch](#), which documents the use of official time across agencies.

Lawmakers have been [pushing OPM to release the report](#), which contains data from fiscal year 2012, for several months.

According to the data released by OPM, federal employees logged over 3.43 million hours of official time in FY 2012, a 1.3% increase over FY 2011. The total average salary costs for official time hours used by non-postal bargaining unit employees was approximately \$157.2 million.

The Department of Veterans Affairs led agencies with use of official time, with employees logging 1.1 million hours of official time.

The Treasury Department (580,490 hours), the Defense Department (336,956 hours), the Transportation Department (251,695 hours), and the Social Security Administration (247,563 hours) rounded out the top five of agencies for most use of official time. Homeland Security (211,422 hours), the Justice Department (178,260), the Agriculture Department (139,336), the Labor Department (55,119 hours), and Housing and Urban Development (50,606 hours) ranked 6-10.

National Labor Relations Board (NLRB) employees logged the most hours per bargaining unit employee, at 11.73 hours.

Prior OPM reports on official time provided basic information and data, while [the new report contextualizes official time](#) within the broader framework of federal labor-management relations.

FROM THE HILL

IRS COMMISSIONER WARNS CONGRESSIONAL INACTION MAY DELAY TAX SEASON

Internal Revenue Service (IRS) Commissioner John Koskinen [wrote a letter](#) to leaders of the House and Senate committees with responsibility for the tax code, warning that next year’s tax season may be delayed if Congress does not make decisions about dozens of expired tax provisions.

Commissioner Koskinen wrote to the lawmakers that “IRS’s operational preparations for the 2015 filing season are in full swing” and that the agency “is currently facing a great deal of uncertainty related to the expired provisions, which raises serious operational and compliance risks.”

The IRS Commissioner said that if Congress agrees to any tax code changes after the end of November, the filing season may be delayed. If changes aren’t made until after the new year, the Commissioner warned of “service disruptions, millions of taxpayers needing to file amended returns, and substantially delayed refunds.”

In response to the IRS Commissioner, Sen. Ron Wyden (D-OR), Chairman of the Senate Finance Committee [said](#), “According to the IRS, the longer Congress delays action the greater risk that the tax filing season and millions of taxpayer refunds will be delayed, among other serious disruptions. As the economy begins to show signs of strength, uncertainty from the federal tax code is the last thing American businesses and families need as they look to grow and invest. Congress needs to act swiftly on these important tax provisions so it can get to work on a comprehensive overhaul of the tax code and lift the fog of uncertainty from taxpayers.”

HEAR IT FROM WAEPA

WAEPA’S FAVORABLE POLICY CLAIMS EXPERIENCE YIELDS \$7.5 MILLION IN REFUNDS FOR FEDERAL EMPLOYEES

As a civilian federal employee, you probably are aware of your FEGLI life insurance options. Well, did you know that you can obtain economical group term life insurance through WAEPA?

[WAEPA](#) is a non-profit association founded in 1943, dedicated to serving the health, welfare, and financial well-being of civilian federal employees and their families.

WAEPA’s group term life insurance program offers flexible coverage options - compare these amounts to the FEGLI group coverage that may be available to you as a civilian federal employee:

- Coverage for You
 - \$25,000 up to \$750,000
- Coverage for Your Spouse
 - \$10,000 up to \$250,000
- Coverage for Your Children
 - \$1,000 to \$25,000

At [WAEPA’s website](#) you can compare WAEPA and FEGLI premium rates, as well as the specific details of both plans of insurance.

Also, as a participating group life insurance program, WAEPA is announcing a refund to its members in 2014 for \$7.5 million dollars as a result of favorable policy claims experience for the period 4/1/2013 through 3/31/2014. While premium refunds are not guaranteed, over \$80 million in premium has been refunded to WAEPA members over the past two decades*.

The WAEPA group term life program is not endorsed by the federal government. Coverage is provided by Life Insurance Company of North America [Policy Form TL 004700 (WP)] and is subject to insurer approval with evidence of good health. This policy contains exclusions and benefits that may reduce by age. For costs and details of coverage, contact WAEPA or visit us at [waepa.org](#).

To learn more about WAEPA and eligibility for our group term life program visit [waepa.org](#). You can also call 1-800-368-3484 to speak with a WAEPA Representative, or you can email questions or requests for information to info@waepa.org.

*Based on historical policy data as of [3/31/2014]. Past performance is not a guarantee of future results.

This information is not intended for residents of Oregon or West Virginia.

CASE LAW UPDATE

MSPB AFFIRMS DEPARTMENT OF DEFENSE FURLOUGH ACTION

A Utility Systems Repairer-Operator (“USRO”) for the Department of the Navy was furloughed for six days based on “the extraordinary and serious budgetary challenges facing the Department of Defense” (“DoD”) for

the remainder of Fiscal Year (FY) 2013, the most serious of which is the sequester that began on March 1, 2013.” The employee appealed the furlough to the Merit Systems Protection Board, arguing that the agency had in fact based the furlough action on his national origin (Mexican) and on his status as a 30 percent or more disabled veteran. The employee also claimed that his position is funded as part of a working-capital-funds service, where funding comes from charges and reimbursements for goods and services rendered, rather than from appropriated funds. The employee argued that his furlough proposal notice incorrectly stated that “a reduction in base budget funding for the Operation and Maintenance accounts, as directed by the Budget Control Act of 2011, and as amended by the American Taxpayer Relief Act of 2012” was an appropriate ground for his furlough, when he instead contends that his funding comes from working-capital funds, making him an “indirectly funded Government Employee,” and exempt from the aforementioned furlough. The MSPB administrative judge affirmed the agency’s decision to furlough the employee, holding that it was reasonable for DoD to “consider its budget situation holistically, rather than isolating each military department’s situation,” because of DoD’s authority to transfer appropriated working-capital funds from one account to others and that it was appropriate for DoD to conserve working-capital funds. The employee petitioned the full Board for review. On October 2, 2014, the Board affirmed the administrative judge’s initial decision as modified.

On appeal, the employee argued that his position was identified as exempt from the furlough since it was necessary to protect safety, life, or property. The Board read the DoD furlough exception referenced, which stated “[in order to avoid harm to mission, those employees necessary to protect safety of life and property are excepted to the extent necessary to protect life and property,” differently than the employee did. The Board found that this exception was not a blanket exception, and specifically that the aforementioned exception excepted employees from furlough who occupied positions that were generally necessary to protect life and property only “to the extent” that it was necessary for such employees to protect life and property.

The employee also disagreed with the finding of the administrative judge that it was within the agency’s discretion to furlough only three of the seven USROs due to scheduling difficulty and its inability to avoid overtime, and pointed to the testimony of an agency manager that he alleged was ignored by the administrative judge: that “no alternate furlough plan was developed, discussed, or considered, and that he had never heard of the term ‘fairly and equally’ and did not know that he had an obligation to furlough similarly-situated employees fairly and equally.”

Further, the employee stated that the administrative judge failed to follow the Board’s precedent in *Chandler v. Department of the Treasury*, 120 M.S.P.R. 163 (2013), which “holds the Board responsible for determining whether the agency has met its burden of proving by preponderant evidence that the furlough promotes the efficiency of the service by showing that it applied its determination” as to which employees would be furloughed in a “fair and even manner.” The administrative judge in this case held that the agency could impose a large part of a furlough, as is proper in a RIF for other reasons, on a single employee even when the furlough could potentially be spread more evenly among several employees. On appeal, the employee asserted that the agency should have spread the total hours of the furlough across all USROs evenly, rather than furloughing only the three USROs with the lowest computation dates.

The Board observed that “fair and even” did not necessarily mean that a furlough must be applied in a way that satisfies the Board’s sense of equity, but rather means that the agency must justify deviating from treating similarly-situated employees similarly with legitimate management reasons. Because the agency determined that only two employees were absolutely necessary to keep filled during the furlough, and because it used a uniform and consistent criteria (service computation date) that satisfied the “legitimate management reason” standard required for difference in treatment. The Board admitted that while there may have been ways that better satisfied the employee’s or the Board’s sense of equity, the agency isn’t required to furlough its employees in those alternative ways. The Board considered testimony from the agency manager, who stated that because of the agency’s attempts to avoid overtime payments when possible and the administrative burden in scheduling the furloughs in the way suggested by the employee, coming up with such a schedule would have been a “nightmare.”

The Board concluded that, even absent a consideration of scheduling difficulties, the agency's use of service computation dates to determine who would be furloughed served as a legitimate management reason for different treatment. According to the Board, the agency had legitimate discretion as to whether it would except four USROs from the furlough and furlough the remaining USROs, or attempt to create a schedule under which none of the USROs would be excepted, and all would be furloughed for the exact same number of hours.

For the above stated reasons, the Merit Systems Protection Board affirmed the agency's furlough action in this case, and agreed with the administrative judge that the employee failed to prove his affirmative defenses.

[You can read the full case, *Lopez v. Department of the Navy*, 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 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.

EDUCATE YOURSELF

GOVERNMENT PERFORMANCE MANAGEMENT WEEK – NOVEMBER 3-6

Government Performance Management Week is aimed at all Federal analysts, staff and managers who are striving to meet the competencies established by the Federal Performance Improvement Council (PIC).

Working with the Federal PIC, The Performance Institute offers these three courses as part of the Government Performance Management Certification program. The weeks' three courses in Strategic Planning, Performance Measurement and Data Driven Performance Reviews have allowed thousands of Federal employees to meet core competency requirements for the expanding number of roles in Federal Planning, Performance and Budgeting.

[Learn more about the event here.](#)

Now in its 18th year of training and education, The Performance Institute is a recognized leader in performance management certification for all Federal agencies. For more information contact Mike Lawson at Michael.Lawson@performanceinstitute.org.

DOLLARS AND SENSE

PHASED RETIREMENT: FROM AN EMPLOYEE'S PERSPECTIVE (PART TWO)

In addition to the items that were discussed in [PART 1](#), employees should be aware of the following considerations when contemplating Phased Retirement:

Deposit and Redeposit Service

If you are considering making payment for any previously unpaid deposit and/or redeposit service, you must do so before entering into Phased Retirement... otherwise you won't be allowed to do so later unless you cancel your Phased Retirement and return to full time employment status. There are exceptions to these rules that allow a surviving spouse to make such payments if you were to pass away during Phased Retirement.

Thrift Savings Plan

TSP loans and in-service withdrawals may continue during Phased Retirement. However, you cannot exercise your partial or full withdrawal options from TSP until you fully retire.

As a phased retiree, you can continue contributing to TSP until you fully retire. However, the agency automatic 1% contribution and remaining 4% agency match for phased retirees under FERS will be smaller than the agency match for full time salary employees. This is true even if both are contributing the same amount into TSP each pay period. This is due to the fact that the agency match is always based on the actual salary scheduled to be received... as opposed to the salary rate (which is usually based on a full time schedule).

Using an \$80,000/year salary example, a full time employee could receive a total of \$3,200 as agency contributions after 12 months... whereas the same employee working half-time will have only received a total of \$1,600 in agency contributions after 12 months. Although this is true for both part-time employees and phased retirees, it's still something you should be aware of.

What if I Change My Mind after Phased Retirement?

You can choose to fully retire anytime you want during Phased Retirement. In other words, you won't be forced to continue Phased Retirement to the prescribed time limit in your particular agreement with the agency. You don't need anyone's permission to fully retire.

However, if you and the agency agree to terminate the Phased Retirement to return to full time Federal employment, you can do so leading up to the date you fully retire. You could potentially return to full time employment, at which time your Phased Retirement would cease. You won't owe any of your retirement income back to OPM and once you decide to fully retire, your pension will be calculated under the regular retirement provisions. The service performed as a phased retiree will be computed using the regular part-time service rules.

FERS Annuity Supplement

This is a non-issue for folks under CSRS or CSRS Offset. This only applies to folks under FERS who are younger than 62 and are considering Phased Retirement.

Although a phased retiree may be receiving half his/her pension while working half time as a Federal employee, the FERS Annuity Supplement is not payable during this phase of retirement. However, if the phased retiree fully retires before the age of 62, the Annuity Supplement will be included with the final full retirement (payable until age 62).

Some Examples

For example, if I was 57 with 30+ years of creditable Federal service under FERS and I had a nice full-time salary job waiting for me in the private sector, I would probably just retire under the regular voluntary retirement provisions. I would receive my full pension, and since OPM only applies the Supplement earnings test once a year, I would also receive the FERS Annuity Supplement for at least a few months.

Even if I didn't want to work after separating from Federal service at age 57, I wouldn't consider Phased Retirement unless I wanted to be a part-time employee at the end of my Federal career. In this situation, I'd receive my full pension for the rest of my life and my Annuity Supplement until age 62.

Another example... I have a friend who wants to keep working until age 62 to retire under FERS because he wants the 1.1% factor in the computation of his pension from OPM once he retires. But he's not too excited about working a full time schedule the entire time. He knows if he separates for retirement before the age of 62, OPM would only give him the 1% factor when they compute his annuity. He has already obtained estimates of his pension payable at the 1% factor versus the 1.1% factor, and it's a difference of almost \$600/month.

When he is 61, he is hoping that his agency will allow him to finish off his last 12 months as a phased retiree. According to him, his job/commute will be more tolerable if he can do this. As a phased retiree, he will be receiving 50% of his pension (using the 1% factor) while he continues Federal service working half time. But since he will be switching from Phased Retirement to full retirement on or after the age of 62, OPM will use the 1.1% factor when they recompute his pension at that time.

In other words, if you are 60 or 61 with 20+ years of creditable service, and you want to work until age 62 to have the 1.1% factor used in the computation of your pension (which would have a permanent positive impact to your annuity), but you don't want to work full time between now and then... you could start talking to your supervisor and your agency retirement officer about your options under Phased Retirement.

My friend could accomplish the same thing by simply switching to a part-time schedule for his last 12 months of his career. But if his supervisor would allow him to switch his schedule from full-time to part-time, then his supervisor should have no problem with allowing him to be a phased retiree instead.

Remember... Phased Retirement would be better than just switching to part time Federal employment because of:

- retirement income received while still working as a Federal employee,
- cheaper health insurance premiums while receiving half-pay from employment, and
- potentially larger life insurance benefits for beneficiaries.

In summary, if you're not considering part time service before separating from Federal service, don't concern yourself with Phased Retirement. Like I said before... sometimes, when you're ready to go... you're ready to go!

This article was written by James Marshall. 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](#).

GEICO'S GOOD STUFF CELEBRATE NATIONAL WILDLIFE REFUGE WEEK

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

October 12-18 is [National Wildlife Refuge Week](#). National refuges are operated by the U.S. Fish and Wildlife Service (USFWS).

Every state in the union has at least one refuge, with many offering [special events](#) and free or discounted admission during the week.

The [National Wildlife Refuge System](#) is the world's premier public conservation network, protecting more than 150 million acres of wildlife habitat in 562 refuges and 38 wetland management districts. Refuges offer outstanding recreational opportunities, from [fishing](#), [hunting](#), [hiking](#) and [birding](#) to paddling, snowshoeing and wildlife photography.

National wildlife refuges provide habitat for species including more than 700 birds, 220 mammals, 250 reptile and amphibians and more than 1,000 fish. More than 380 threatened or endangered plants or animals are also protected. Annually, millions of migrating birds use refuges as stepping stones while they fly thousands of miles between their summer and winter homes.

In September the Senate passed a bipartisan resolution ([S.Res.556](#)) [commemorating the week](#) of October 12th as National Wildlife Refuge Week to raise awareness about the importance of the Refuge System to wildlife conservation and the recreational opportunities available in our wildlife refuges.

Nationwide, refuges support more than 35,000 jobs and pump \$2.4 billion into local communities, according to a [USFWS report issued last year](#).

“National wildlife refuges include some of America’s most treasured places, from the coastal islands of Maine to the deserts of the Southwest to Alaskan mountain ranges,” said Secretary of the Interior Sally Jewell. “National Wildlife Refuge Week is a perfect time to discover everything that refuges have to offer.”

“Americans cherish their natural heritage,” said Service Director Dan Ashe. “Since President Theodore Roosevelt established the first national wildlife refuge on Pelican Island, Florida, in 1903, we’ve learned that this precious legacy can’t be taken for granted. I hope that citizens across the country will use this occasion to visit to a wildlife refuge, enjoy the festivities and learn more about conservation.”

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 don’t sense that the president really cares about federal employees, because when the Congress comes out with something bad, you very seldom see the administration push back. You are finding tremendous morale problems in the federal government. This is bad because if you continue to criticize, you begin to beat them down. I think morale is probably at the lowest point I’ve seen it.

Retiring Rep. Frank Wolf (R-VA) in an [October 8 interview in The Washington Post](#)

WEEKLY LEADERSHIP REFLECTION

Be a yardstick of quality. Some people aren’t used to an environment where excellence is expected.

Steve Jobs