Restructuring Information Handbook Module 9

Voluntary Early Retirement

Unit B, Guidance

(Draft June 2003 version)

Introduction

The U.S. Office of Personnel Management developed the **Restructuring Information Handbook** to assist Federal agencies in identifying the mandatory statutory and regulatory procedures that apply to restructuring situations.

The Handbook also offers agencies options for minimizing or even eliminating the disruption that often results from restructuring.

There is no requirement for Federal agencies to use this Handbook. Also, the United States Court of Appeals for the Federal Circuit stated in **James v. Von Zemenszky**, 284 F.3D 1310 (2002), that: ". . . OPM's Restructuring Information Handbook is not a formal regulation, but merely an informal statement of agency views."

The structure of the Handbook assists the user in locating as much or as little restructuring information as the user needs. Some Modules contain only one **Unit**, while other Modules have two or more Units.

For subjects with mandatory statutory or regulatory requirements, **Unit A** (**Mandatory Requirements**) provides the user with both a crash course on the subject, and also with detailed information, complete with citations of requirements contained in law and regulation.

When appropriate, **Unit B** (**Guidance**) provides the user with useful guidance, including key appeals decisions from appellate bodies such as the Merit Systems Protection Board.

The summaries of appeals decisions are guidance prepared by individual OPM employees. The appeals summaries do not represent official summaries approved by OPM, the Board, or other appellate organizations, and are not intended to provide legal counsel or to be cited as legal authority. Instead, the appeals summaries inform and help the user locate relevant appellate precedents on a specific downsizing subject.

Unit F (**Basic Index to Module**) and **Unit G** (**Detailed Index to Module**) help the user readily locate information within a specific Module.

Other Modules may contain additional Units, such as **Unit C** (**Appeals Index**), and **Unit D** (**Samples**).

Finally, Module 1 contains **Unit H**, (**Detailed Index to the Restructuring Information Handbook**).

We welcome comments on the Restructuring Information Handbook.

Send any comments and suggestions to the Center for Talent and Capacity Policy at (202) 606-0960; FAX (202) 606-2329; or e-mail Thomas A. Glennon at taglenno@opm.gov.

Contents

OPM's Restructuring Information Handbook Modules contain the following topics:

Topic	Module	Unit(s)
Planning and Alternatives for Restructuring	1	B, F, G, H
Human Resource Responsibilities in Restructuring	2	B, F, G
Reduction in Force	3	A, B, C, D, E, F, G
Transfer of Function	4	A, B, C, F, G
Reduction in Force Furlough	5	A, B, C, F, G
Reemployment Priority List	6	A, B, C, F, G
Career Transition Assistance	7	A, F, G
Interagency Career Transition Assistance Plan	8	A, F, G
Voluntary Early Retirement	9	A, B, C, F, G
Voluntary Separation Incentive Payments	10	A, B, C, F, G

Using the Handbook

The Modules contain many cross-references to additional pertinent material. To assist in searches, each Module features a unique index system that assists the user in readily locating information in that Module or in the other Modules.

For example, a reference to "**3-A-15-3**" refers to:

(1) Module 3 ("**Reduction in Force**"),

(2) Unit A ("**Required Procedures**"),

(3) Section 15 ("**Credit for Performance in Reduction in Force**"),

(4) Paragraph 3 ("**Time Period Covered by Employees' Performance Ratings**").

For a second example, a reference to "**3-B-6-5-(b)**" refers to:

(1) Module 3 ("**Reduction in Force**"),

(2) Unit B ("**Guidance**"),

(3) Section 6 ("**Reorganization and Job Erosion**"),

(4) Paragraph 5 ("**Use of RIF Procedures in Job Erosion Situations**"),

(5) Subparagraph (b).

All of the Modules use the same index system.

For example, a reference to "**4-A-4-3**" refers to:

(1) Module 4 ("**Transfer of Function**"),

(2) Unit A ("**Required Procedures**"),

(3) Section 4 ("**Determining Whether the Transfer of Function Provisions are Applicable**"),

(4) Paragraph 3 ("**Basis for Transfer of Function Decisions**").

Restructuring Information Handbook Module 9

Voluntary Early Retirement

Unit B, Guidance
(Draft June 2003 version)

Introduction

Restructuring Information Handbook Module 9 provides guidance on OPM's Voluntary Early Retirement Authority (VERA) regulations published in sections 831.114 and 842.113 of title 5 of the Code of Federal Regulations. Module 9 consists of five Units: (1) Unit A, "Required Procedures," (2) Unit B, “Guidance,” (3) Unit C, “Voluntary Early Retirement Appeals,” (4) Unit F, “Basic Index to Module 9,” and (5) “Detailed Index to Module 9.” This is the June 2003 version of Unit B.

Contents

This publication contains the following topics:

Restructuring Information Handbook Module 9

Voluntary Early Retirement

Unit B, Guidance
(Draft June 2003 version)

Table of Contents

Section 1, Overview of the Voluntary Early Retirement Authority Option

Introduction

This section contains additional guidance on the overview and history of the Voluntary Early Retirement Authority (VERA) option covered in Section 1 of Module 9, Unit A (9-A-1).

Contents

This section contains the following topics:

Topic	See Paragraph
VERA History	9-B-1-2

Additional Information

When appropriate, Restructuring Information Handbook Module 9, Unit B (Guidance) has additional information on material in Unit 9-A.

To find additional information on this key paragraph in Unit 9-A,	In Unit 9-B see paragraph:
9-A-1-2	9-B-1-2

A This symbol highlights the references back to Unit 9-A.

ⓘ This symbol guides you toward more general references on the subject in Module 9 or in other Modules.

Section 1, Overview of the Voluntary Early Retirement Authority Option

9-B-1-2 VERA History

A [Guidance for paragraph **9-A-1-2**.]

VERA has been available to agencies as a restructuring option since 1973.

- **Explanation**-Congress in 1973 initially authorized VERA by approval of Public Law 93-39. The original legislation allowed an agency to request VERA only if the agency was faced with a major reduction in force.

  With approval of Public Law 95-454 in 1978, Congress expanded the VERA option to cover situations resulting from a major reduction in force, a major reorganization, or a major transfer of function.

  In 1982 Congress amended the original law through approval of Public Law 97-253, which was codified in subparagraph 5 U.S.C. 8336(d)(2).

  The 1982 legislation added a requirement that OPM could approve an agency's VERA request only if a significant percentage of employees would be separated or downgraded because of a major reduction in force, a major reorganization, or a major transfer of function.

  With the implementation of the Federal Employees Retirement System (FERS) in 1987, Congress extended the VERA option by subparagraph 5 U.S.C. 8414(b)(1)(B) to employees covered by that retirement system.

  In 1998, Congress affirmed an agency's right to limit VERA retirements based on organizational needs by approval of Section 7001 of Public Law 105-174 (approved May 1, 1998). Although Section 7001 included an expiration date of September 30, 1999, in 1999 Congress eliminated the expiration date by approval of Section 651 of Public Law 106-58 (approved September 29, 1999).

These two statutory provisions limited the scope of the 1997 decision in **Torres v. Office of Personnel Management**, 124 F.3d 1287 (1997, Fed. Cir.), which placed severe restrictions on the agency's right to limit VERA retirements within an organization.

In 2002, Congress permanently affirmed an agency's right to manage VERA retirements by approving of Section 1313(b) of the Homeland Security Act of 2002 (Public Law 107-296, approved November 25, 2002). The Act also expanded the reasons for requesting VERA to include the delayering and restructuring of excess personnel and positions.

Section 4, Requesting OPM Approval of VERA

Introduction

This section contains additional guidance on Section 4 of Module 9, Unit A (9-A-4), covering the agency's right to both request VERA from OPM, and then to manage early retirements under the VERA in order to best achieve the agency's restructuring goals. This section also contains additional guidance on Section 4 concerning the responsibility of the agency to ensure that each VERA retirement is truly a voluntary action.

Contents

This section contains the following topics:

Additional Information

When appropriate, Restructuring Information Handbook Module 9, Unit B (Guidance) has additional information on material in Unit 9-A.

To find additional information on these key paragraphs in Unit 9-A,	In Unit 9-B see paragraph:
9-A-4-1	9-B-4-1

A	This symbol highlights the references back to Unit 9-A.

ⓘ	This symbol guides you toward more general references on the subject in Module 9 or in other Modules.

Section 4, Requesting OPM Approval of VERA

9-B-4-1 Management Right to Request VERA

A [Guidance for paragraph **9-A-4-1**.]

The agency has the right to request VERA from OPM, and to make other decisions concerning how and when to use an approved VERA.

- **Explanation-Initial Planning for 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 an identified 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 what could be a temporary situation, such as a short-term reduction in available appropriations.

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

- **Explanation-When to Start Planning for VERA**.

  It is important for an agency to begin planning for VERA as soon as it appears there may be a need for it. This ensures that the agency has VERA available in time for an agency to make most effective use of the option, and to allow employees sufficient time to consider their whether or not to voluntarily separate from the agency.

  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. Some activities have reported that the agency's own internal clearance process may take several weeks.

Once OPM receives an agency's VERA request, OPM promptly processes the package, provided that request is consistent with OPM's VERA regulations.

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.

At this stage the agency should also consider whether it has any statutory and contractual obligations they may have with labor organizations representing the employees covered by VERA.

- **Explanation-Maximizing the Benefit of a VERA**.

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 personnel staff, counseling employees, holding retirement seminars, computing annuities for those considering retirement, etc.

One of the first steps in the planning process is to determine the number of employees eligible for VERA and estimate the results of allowing these employees retire early (e.g., savings from a net reduction in personnel, positions available to restaff with different skills, placement opportunities for displaced employees, etc.).

Developing an estimate of the population of employees eligible to retire under VERA is relatively simple. For example, an employee is eligible for VERA when:

(1) The employee is either at least age 50 with at least 20 years of service, or any age with 25 years of service; and,

(2) The employee has been on the rolls for at least 31 days prior to the date of the agency's request for the voluntary early retirement authority.

- **Explanation-Importance of Targeting VERA.**

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. In the past, some agencies' requests for VERA contained overly optimistic estimates of the number of retirees.

The VERA acceptance rate has varied over the years since Congress first authorized the program in 1973. At this time in June 2003, many agencies estimate that approximately 5 percent of their eligible employees will actually retire under a VERA authority if no Voluntary Separation Incentive Payments are offered. With a VSIP option, most agencies plan for a higher acceptance rate of the VERA option.

The single 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 line mission.

- **Explanation-Calculating Savings from VERA When the Agency's Goal is to Reduce its Number of Employees**.

After an agency determines the number of employees eligible for early retirement under VERA and applies its projected acceptance rate, the agency can readily calculate potential savings from VERA in reduced personnel costs.

The agency can compute direct savings from each early retirement by projecting the salary and fringe benefit costs associated with the average employee eligible for VERA. The agency then subtracts an estimate of the average lump sum amount the agency must pay to each employee to cover accrued leave. The net result is the savings in salaries and expenses the agency can expect from each early retiree.

- **Explanation-Additional Agency Workload**.

  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.

Section 5, Offering VERA to Employees

Introduction

This section contains additional guidance on Section 5 of Module 9, Unit A (9-A-5), covering the agency's right to offer eligible employees the Voluntary Early Retirement option.

Contents

This section contains the following topics:

Additional Information

When appropriate, Restructuring Information Handbook Module 9, Unit B (Guidance) has additional information on material in Unit 9-A.

To find additional information on these key paragraphs in Unit 9-A,	In Unit 9-B see paragraph:
9-A-5-2	9-A-5-2
9-A-5-2-(a)	9-B-5-2-(a)
9-A-5-2-(c)	9-B-5-2-(c)
9-A-5-2-(e)	9-B-5-2-(e)
9-A-5-5-(c)	9-B-5-5-(c)
9-A-5-5-(d)	9-B-5-5-(d)
9-A-5-6	9-B-5-6

A This symbol highlights the references back to Unit 9-A.

ⓘ This symbol guides you toward more general references on the subject in Module 9 or in other Modules.

Section 5, Offering VERA to Employees

9-B-5-2 Organizational Basis for VERA Offers

A [Guidance for paragraph **9-A-5-2 .**]

An agency has many options in deciding how to implement VERA.

- **Explanation**-Subparagraphs **9-B-5-2-(a)**, **-(c)**, **-(d)**, and **-(e**) below cover several options that an agency may consider in deciding how to apply the VERA option.

  In some situations, the VERA option can allow displaced employees faced with separation or downgrading to voluntarily retire from the workforce before the employee's normal retirement date. More frequently the VERA option allows an employee in a continuing position to retire early and provide a placement opportunity for a displaced employee. In order to maximize placement opportunities resulting from VERA, the agency should consider:

  (1) Whether the vacancies created by early retirees will provide opportunities for the reassignment (and/or voluntary downgrading) of employees whose positions are being abolished (for example, within a single local commuting area, or from one local commuting area to a different local commuting area);

  (2) Whether reassigned employees are capable of assuming the duties of vacated positions without significant loss of productivity or the need for extensive retraining; and

  (3) Whether the organization can accommodate potential disruption resulting from allowing employees in a stable organization to retire early in order to place excess employees from a different organization.

A [Guidance for subparagraph **9-A-5-2-(a)**.]

(a) After OPM has approved the agency's VERA request, the agency may offer VERA based on one or more organizational components. (5 CFR 831.114(b)(2)(i); 5 CFR 842.114(b)(2)(i))

- **Example One (9-B-5-2-(a))**: Organizationally, the independent Agency for Fiscal Resources (AFR) is structured on the basis of a headquarters with ten subagencies, and five regions. One of the headquarters' subagencies is faced with a major reduction in force. The agency decides to offer VERA only to employees in the one headquarters' subagency planning for a reduction in force without regard to the agency's other organizations in the headquarters or the field.

- **Example Two (9-B-5-2-(a))**: The Agency for Fiscal Resources consists of a headquarters with ten subagencies, and five regions. One of the headquarters' subagencies is faced with a major reduction in force. The agency decides to offer VERA to employees in all ten of the headquarters' subagencies without regard to the agency's other organizations in the headquarters or the field. However, VERA is available to employees in the nine subagencies not planning for a reduction in force only on a one-for-one basis to place employees faced with separation or downgrading in the subagency conducting the reduction in force.

A [Guidance for subparagraph **9-A-4-2-(c)**.]

(c) After OPM has approved an authority, the agency may offer VERA based on one or more geographic locations. (5 CFR 831.114(b)(2)(iii); 5 CFR 842. 114(b)(2)(iii))

- **Example One (9-B-4-2-(c))**: The Agency for Fiscal Resources consists of a headquarters with ten subagencies, and five regions. Each of the five regions is planning for a major reduction in force. The agency decides to offer VERA to employees in all ten of the headquarters' subagencies, but only on a one-for-one basis to place regional employees faced with separation or downgrading in the region conducting a reduction in force.

- **Example Two (9-B-4-2-(c))**: The Agency for Fiscal Resources consists of a headquarters with ten subagencies, and five regions. One of the five regions is planning for a major reduction in force. The agency decides to offer VERA to employees in all five of the regions. However, the agency limits VERA in the four regions not faced with a reduction in force only to a one-for-one basis to place employees faced with separation or downgrading in the one region actually conducting a reduction in force.

A [Guidance for subparagraph **9-A-5-2-(d)**.]

(d) After OPM has approved VERA, the agency may offer VERA based on one or more specific window periods. (5 CFR 831.114(b)(2)(iv); 5 CFR 842. 114(b)(2)(iv))

- **Explanation**-The agency may establish "windows" for designated components, locations, programs, etc., within the time limits of the agency's VERA.

  The agency must define a "window" during which eligible employees may retire under the VERA. There is no maximum or minimum length of a VERA window.

  Ideally, the window should be short enough to create needed vacancies quickly, but long enough to give employees time to consider their options. Most agencies consider a 60-day VERA window as ideal, but the situation may require the agency to use a shorter timeframe.

  One consideration in setting an early retirement window(s) is the need to give the personnel office(s) adequate time to absorb the workload of processing individual early retirement requests. It is a good idea to encourage employees to submit their retirement papers as far in advance as possible.

  Agencies should also keep in mind the "third of the month" deadline. Employees who retire voluntarily under the Civil Service Retirement System after the third of the month lose the annuity for that month. Many employees will want to retire within the first three days of the month. A 30-day window that begins on the first of the month could produce a heavy workload for the personnel staff during the first few days of the month. (Under the Federal Employees Retirement System all voluntary retirements begin on the first of the month after separation).

A [Guidance for subparagraph **9-A-5-2-(e)**.]

(e) After OPM has approved VERA for an agency, the agency may offer VERA based upon the skills, knowledge, or other factors related to a position.

- **Explanation**-This is a new VERA flexibility authorized by the

Homeland Security Act of 2002.

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- Paragraph **9-A-1-3** provides additional guidance on this new VERA flexibility.

- **Example One (9-B-5-2-(e))**: The workforce of the Agency of Assembled Information (AAI) includes nearly 400 employees in classification series GS-334. The employee's grades range from GS-9 through GS-15.

  Even though all of the employees hold official positions of record in the same classification series, the actual work of individual employees varies widely. For example, some GS-334 employees are mainframe programmers, others are LAN administrators, another group consists of systems analysts, and still others perform different maintenance work.

  With the introduction of a new GS-2210 classification family that allows an agency to better distinguish between the actual duties, responsibilities, and qualifications required by different computer-related positions, AAI finds that it has 20 excess GS-334 mainframe programmers from its pool of 70 programmers. Instead, AAI needs 20 LAN application specialists covered by the new GS-2210 series. None of the GS-334 mainframe programmers qualify for the 20 new LAN application positions, which require a minimum of 3 years specialized experience.

  Using the new flexibilities of the Homeland Security Act of 2002, AAI then requests and obtains OPM approval to offer 20 VERA early retirements to its excess GS-334 mainframe programmers.

9-B-5-5 Ensuring that VERA Retirements are Voluntary

A [Guidance for paragraph **9-A-5-5.]**.

OPM's regulations make the agency responsible for ensuring that each VERA retirement is actually a voluntary decision of the employee.

A [Guidance for subparagraph **9-A-5-5-(c)**.]

(c) An employee who after retiring under VERA who believes that the retirement was actually involuntary because of coercion or incorrect information may appeal the basis for the separation to the Merit Systems Protection Board.

- **Explanation**-The Board applies the same standard of a voluntary action to the separation of an employee by optional retirement, VERA, or resignation. The Board also applies the same standard whether or not the employee separates for a VSIP.

  Because the same standard applies to both VSIP and VERA separations, Unit **9-C** ("Voluntary Early Retirement Appeals") includes references to both retirement appeals (including VERA) and VSIP appeals. The same appeals are also cited in **Unit 9-C** ("Voluntary Early Retirement Authority Appeals.")

  An agency's highest level decisionmakers may minimize or even eliminate any appeals involving VERA and/or VSIP separations by reminding supervisors of their responsibility to maintain an active role in preventing coercion by either supervisors or other employees. The agency's highest level decisionmakers should also actively work to ensure that any employee who is potentially interested in separation by VERA and/or VSIP has the complete and accurate information to make an informed decision.

  For guidance on appeals with VERA issues, see the following decisions involving VERA retirement:

  (1) **Cook v. Department of Defense**, 63 M.S.P.R. 270 (1994); In a final decision, the Merit Systems Protection Board found in Cook that an employee has the right to withdraw an irrevocable resignation to accept a buyout unless the agency meets the test set forth in paragraph 5 CFR 715.202(b). Under that regulation, an agency may decline a request to withdraw a resignation before its effective date only when the agency has a valid reason for the denial, and explains that reason to the employee. The regulation provides that a valid reason includes administrative disruption that would result from the employee's withdrawal of the resignation, or the agency's commitment to staff the position with another employee after the first employee resigns.

  (2) **Gustavson v. Army**, 79 M.S.P.R. 638 (1998); The Board granted the agency's petition for review and remanded the

case to determine whether the appellant's retirement was actually an involuntary action.

The agency prepared a specific notice of separation by reduction in force for the appellant. Before the notice was issued, the agency advised the appellant that his position was being abolished and that he would not receive an offer of a different position. The agency provided this information to both the appellant and other employees so that they could consider the agency's offer of a VSIP. Because the appellant then applied for VERA and a VSIP, the agency did not provide him with an actual notice of separation by reduction in force.

The appellant subsequently filed an appeal, claiming that his retirement was actually involuntary. The appellant stated that he based his decision to retire on the basis of the agency's statement that his position would be abolished, and that he subsequently learned that his position was not abolished, but was instead given to another employee.

The Board stated:

"Taking the appellant's allegations as true, his decision to retire was not merely a choice between unpleasant alternatives, but between false alternatives." Given a short two day deadline set by the agency to accept voluntary early retirement and VSIP, ". . . the appellant could not have awaited the purported abolition of his position to make a decision to retire or not to retire under the program." Rather, the appellant was compelled by the deadlines under ". ... which the agency structured the early retirement/VSIP program to make his retirement decision in reliance on representations allegedly made to him by an agency official that his position would definitely be abolished after the early retirement election period had expired. We find that the appellant has made a nonfrivolous allegation that he detrimentally relied on materially incorrect statements by the agency in making his decision to retire, and that his retirement was therefore involuntary."

The Board then remanded the decision. On remand, the Administrative Judge advised the appellant that to prove his retirement was involuntary, including information that (1) the agency told the appellant that his position would be abolished (which was actually accepted by both parties to the appeal), (2) he based his decision to retire on the agency's statement that his position would be abolished, (3) the agency did not abolish his position, and (4) when the agency informed the appellant that his position would be abolished, the agency at that time actually knew that the appellant's position would not be abolished.

(3) **Krizman v. Postal Service**, 77 F.3d 434 (1996); The United States Court of Appeals for the Federal Circuit held that the plaintiff's acceptance of VERA in order to receive a VSIP was a voluntary action that was not appealable because the appellant had not been involuntarily demoted by reduction in force.

The plaintiff claimed that he would not have retired had he known that the Postal Service reorganization constituted a reduction in force and thus his retirement was involuntary. The Board dismissed the plaintiff's subsequent appeal, and the Court agreed with the Board's decision. In reaching a decision, the Court also found that because the plaintiff was not reached for release from a reduction in force competitive level, he was not entitled to information concerning his retention rights, and was thus not entitled to notice of any appeal rights.

A [Guidance for subparagraph **10-A-5-5-(d)**.]

(d) An agency may use a canvass letter to determine the workforce's potential interest in VSIP or VERA.

- **Explanation**-For additional guidance, see **Decker v. Health and Human Services**, 40 M.S.P.R. 119 (1989).

  The Decker decision specifically involves a VERA canvass letter. (The same principles in the decision also apply to a VSIP canvass letter.)

In Decker, the Board stated that "Both the Omnibus Budget Reconciliation Act of 1982 (Pub.L. 97-253 § 308(a)) and OPM guidelines authorize federal agencies considering a RIF to survey employees eligible for retirement as a means of using voluntary retirement to lower employee complements and thereby reduce the number of employees affected by the RIF action."

A VERA canvass letter is a planning tool to assist the agency in maintaining the agency's ability to perform its essential mission(s). A VERA canvass letter is not prima facie evidence that the agency is trying to coerce older workers into voluntary early retirement.

Many agencies use a general memorandum to notify all employees of the availability of the VERA option. Depending on the size of the workforce, the memorandum may announce that the agency will conduct a group orientation session on VERA.

In place of a general memorandum, some agencies elect to send individual memorandums to employees eligible for early retirement containing similar information.

In either case, the memorandum generally defines the window period, and identifies positions included in the authority (and/or excluded from the authority). Also, the memorandum should provide a contact source in the personnel office where interested employees can obtain additional information and the actual forms needed for retirement. Interested employees can then receive personal counseling and an annuity computation by personnel office staff.

9-B-5-6 Possible Waiver of the Usual Participation Requirement to Continue Health Benefits into Retirement

A [Guidance for paragraph **9-A-5-6**.]

If the agency offering VERA also has an OPM-approved VSIP plan, the agency may be covered by a waiver of the usual participation requirement to continue health benefits into retirement.

- **Explanation**- In order to continue Federal health insurance into retirement, employees who have not received buyouts must generally have been 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 VSIP authority is eligible for a blanket waiver of the 5-year participation requirement under Benefits Administration Letter (BAL) 00-220, dated November 7, 2000

BAL 00-220 covers “Federal Employees Health Benefits (FEHB) Program: Waivers of the Participation Requirement for Employees Retiring During an Agency Buyout Period.” The BAL 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 Voluntary Separation Incentive Payments.

BAL 00-220 is available from OPM’s website at www.opm.gov.