

## **Restructuring Information Handbook Module 10**

### **Voluntary Separation Incentive Payments**

#### **Unit A, Required Procedures (Draft April 2003 version)**

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##### **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.

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**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](mailto:taglenno@opm.gov).

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## Contents

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

<b>Topic</b>	<b>Module</b>	<b>Unit(s)</b>
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

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**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**").
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## **Restructuring Information Handbook Module 10**

### **Voluntary Separation Incentive Payments**

#### **Unit A, Required Procedures (April 2003 version)**

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**Introduction** Restructuring Information Handbook Module 10 provides guidance on OPM's Voluntary Separation Incentive Payment (VSIP) regulations published in part 576 of title 5 of the Code of Federal Regulations (5 CFR part 576). Module 10 consists of five Units: (1) Unit A, "Required Procedures," (2) Unit B, "Guidance," (3) Unit C, "Voluntary Separation Incentive Payment Appeals," (4) Unit F, "Basic Index to Module 10," and (5) "Detailed Index to Module 10." This is the April 2003 version of Unit A.

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**Contents** This publication contains the following topics:

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## **Restructuring Information Handbook Module 10**

### **Voluntary Separation Incentive Payments**

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## Section 1, Overview of the Voluntary Separation Incentive Payment Option

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**Introduction** This section provides an overview and history of the Voluntary Separation Incentive Payment (VSIP) option. Each paragraph in Section 1 summarizes a specific VSIP topic. For more detailed information on a topic, when appropriate a paragraph in Section 1 has a reference to related material in Module 10. The "Additional Information" paragraphs below list these references.

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**Contents** This overview section contains the following topics:

Topic	See Paragraph
Purpose of VSIP	10-A-1-1
VSIP History	10-A-1-2
New VSIP Flexibilities	10-A-1-3
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**Additional Information in Unit A:** This section in Restructuring Information Handbook Module 10, Unit A, has references to other sections in Unit 10-A for more detailed information on specific VSIP topics.

To find additional information in this Module on the overview paragraphs below in Unit 10-A,	In Unit 10-A see section or paragraph:
10-A-1-3-(a)	10-A-2
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10-A-1-5	10-A-9

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<p><b>A</b> In Section 1, this symbol highlights where you can find more detailed information in Unit 10-A on a VSIP topic.</p>
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**Additional  
Information  
in Unit B:**

When appropriate, Restructuring Information Handbook Module 10, Unit B (Guidance) has additional information on material in Unit 10-A.

<b>To find additional information on these key paragraphs in Unit 10-A,</b>	<b>In Unit 10-B see paragraphs:</b>
10-A-1-2	10-B-1-2
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**i** This symbol guides you toward more references on the subject in Module 10 or in other Modules.

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## **Section 1, Overview of the Voluntary Separation Incentive Payment Option**

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### **10-A-1-1      Purpose of VSIP**

The "**Voluntary Separation Incentive Payment**" (**VSIP**) (or "buyout") option allows an agency in a restructuring situation to offer permanent employees a lump sum payment up to \$25,000 if the employee voluntarily retires or resigns.

- The voluntary VSIP separation will often avoid an involuntary separation by reduction in force or relocation, and/or offer a placement opportunity to a surplus or displaced employee.
- In some situations, the voluntary VSIP separation may also serve as a management tool to assist the agency in reshaping its existing workforce into better alignment with the skills and knowledge needed to perform updated positions that better reflect the agency's mission.

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### **10-A-1-2      VSIP History**

Most agencies must have specific legislative authority in order to offer a Voluntary Separation Incentive Payment (VSIP).

**B** [See Section **10-B-1-2** for additional guidance.]

- Several agencies have similar authority through their enabling legislation.
- (a) In October 1992, Congress initially authorized the VSIP option for excess employees in the Department of Defense.
- Defense employees who resigned, retired under a voluntary early retirement authority ("VERA"), or retired optionally, could receive a maximum VSIP of \$25,000, using the statutory formula for severance pay.
  - The initial Defense VSIP authority was limited to five

years, but was subsequently extended for over a decade without interruption.

- (b) In March 1994, Congress approved the Federal Workforce Restructuring Act of 1994, which allowed most non-Defense executive branch agencies to offer similar Voluntary Separation Incentive Payments from March 30, 1994 through March 31, 1995, for employees who voluntarily resigned or retired.
  - (c) Over the next eight years, Congress subsequently approved over 30 separate VSIP laws or extensions that covered specific agencies for set periods of time.
- 

### **10-A-1-3**

#### **New VSIP Flexibilities**

The Homeland Security Act of 2002 provides additional VSIP opportunities for most executive branch agencies that are restructuring.

#### **B**

[See paragraph **10-B-1-3** for additional guidance.]

- (a) Congress for the first time approved a continuing VSIP authority that is available to most executive branch agencies that are carrying out restructuring actions.
  - Section 1313(a) of the Act contains the VSIP provisions.

#### **A**

[See Section **10-A-2** for more detailed guidance on the legal authorities for Voluntary Separation Incentive Payments.]

- (b) The maximum amount of a buyout is still capped at \$25,000 using the statutory formula for severance pay.
- (c) Each agency wishing to offer Voluntary Separation Incentive Payments must now submit a plan to OPM that identifies the purpose, coverage, time periods, and amounts of the proposed Voluntary Separation Incentive Payments.
  - (1) OPM consults with OMB in reviewing each agency's restructuring plan and VSIP strategy.
  - (2) OPM will also consult with OMB if the agency's VSIP

plan needs modifications.

**A** [See Section **10-A-4** for more detailed guidance on requesting OPM approval of VSIP authority.]

- (d) After OPM approval, an agency may now offer Voluntary Separation Incentive Payments using a proposed date for reshaping the workforce, but still before an actual planned reduction in force date.
- (e) An agency that pays a VSIP under the Homeland Security Act of 2002 does not incur any reduction in personnel ceiling.
  - Many prior VSIP laws resulted in a permanent one-for-one reduction in personnel ceiling for each employee who voluntarily separated from the agency for a VSIP.

**B** [See subparagraph **10-B-1-3-(e)** for additional guidance.]

- (f) An agency that pays a VSIP under the Homeland Security Act of 2002 does not incur a surcharge for each VSIP.
  - Many prior VSIP laws resulted in a surcharge for each employee who voluntarily separated from the agency for a VSIP.

**B** [See subparagraph **10-B-1-3-(f)** for additional guidance.]

- (g) All present agency-specific VSIP laws will remain effective until their respective expiration dates.
  - Those agencies have the option of offering Voluntary Separation Incentive Payments under their present agency specific legislation, and under the new executive branch VSIP provisions authorized by the Homeland Security Act.

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**10-A-1-4**

**Repayment Requirement for Federal Employment After Receiving VSIP**

The Homeland Security Act of 2002 for the first time established a uniform standard requiring that an individual who separated for a VSIP

must repay the gross amount of the VSIP if the individual is reemployed by the Government of the United States within 5 years of the separation.

**B** [See Section **10-B-1-4** for additional guidance.]

- (a) Reemployment includes a personal services contract or other direct contract.
- (b) The Act provides that an individual who separated for a VSIP under Act must repay the entire amount of the VSIP before the individual's first day of reemployment by the Government of the United States.

**A** [See Section **10-A-8** for more detailed guidance on the obligation to repay a VSIP before reemployment by the Government of the United States within 5 years of separation.]

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**10-A-1-5**      **Waiver of VSIP Repayment Requirement**

The Homeland Security Act of 2002 also for the first time established a uniform standard for most agencies to request a waiver of the VSIP repayment requirement.

**B** [See Section **10-B-1-5** for additional guidance.]

- (a) An agency may request a waiver of the VSIP repayment requirement if the former employee:
  - (1) Has unique abilities and is the only qualified available applicant for the position; or
  - (2) Has skills needed in an emergency situation involving a direct threat to life or property.
- (b) An agency may not request a waiver of the VSIP repayment requirement if the reemployment is based upon a personal services contract, or other direct contract.

**A** [See Section **10-A-8** for more detailed guidance on VSIP repayment waiver requests, including executive branch waiver requests to OPM and requests for waivers based upon reemployment in legislative and

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judicial branch organizations.]

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## Section 2, Legal Basis for Executive Branch VSIP

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**Introduction** This section covers the legal basis for the executive branch Voluntary Separation Incentive Payment (VSIP) option under the Homeland Security Act of 2002 (Public Law 107-296). This section also discusses existing authority for Voluntary Separation Incentive Payments under other statutes.

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**Contents** This section contains the following topics:

Topic	See Paragraph
Statutory Authority for Executive Branch VSIP	10-A-2-1
Regulatory Authority for Executive Branch VSIP	10-A-2-2
VSIP is not VERA	10-A-2-3
VSIP Authority Under Other Statutes	10-A-2-4

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**Additional Information in Unit A:** When appropriate, this section in Restructuring Information Handbook Module 10, Unit A, references other sections in Unit 10-A for more detailed information on specific VSIP topics.

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To find additional information in this Module on these key paragraphs in Unit 10-A,	In Unit 10-A see section or paragraph:
10-A-2-2-(a)	10-A-4
10-A-2-2-(b)	10-A-8
10-A-2-3-(b)	10-A-4-5-(c)-(7)

<p><b>A</b> This symbol highlights where you can find additional material in Unit 10-A.</p>
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<p><b>i</b> This symbol guides you toward more references on the subject in Module 10 or in other Modules.</p>
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## **Section 2, Legal Basis for Executive Branch VSIP**

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### **10-A-2-1**

#### **Statutory Authority for Executive Branch VSIP**

The executive branch " **Voluntary Separation Incentive Payment**" (**VSIP**) option is authorized by Section 1313(a) of Public Law 107-296 ("The Homeland Security Act of 2002," approved November 25, 2002).

- The Act codified the government-wide VSIP provisions by adding new sections 3521 through 3525 of title 5, United States Code (5 U.S.C. 3521-3525).
- (a) Sections 5 U.S.C. 3521 through 3523 cover VSIP requests from agencies, OPM approval of agencies' VSIP plans, and employees' eligibility for VSIP.
- (b) Section 5 U.S.C. 3524 covers the:
  - (1) General obligation to repay the gross amount of the VSIP if an individual is reemployed by the Government of the United States within 5 years of receiving the VSIP, and
  - (2) Authority to waive the general repayment requirement.

### **10-A-2-2**

#### **Regulatory Authority for Executive Branch VSIP**

OPM implements the executive branch VSIP option through regulations published in part 576 of title 5, Code of Federal Regulations (5 CFR part 576).

- On February 4, 2003, OPM published interim part 576 regulations (effective on the date of publication) in the Federal Register at 68 FR 5529.
- (a) Subpart 5 CFR 576-A covers VSIP requests from agencies, OPM approval of agencies' VSIP plans, and employees' eligibility for VSIP.

### **A**

[See Section **10-A-4** for guidance on submitting a VSIP request to OPM.]

- (b) Subpart 5 CFR 576-B covers the:
- (1) General obligation to repay the gross amount of the VSIP if an individual is reemployed by the Government of the United States within 5 years of receiving the VSIP; and
  - (2) Authority to waive the general repayment requirement

**A** [See Section **10-A-8** for guidance on requesting a waiver of the VSIP repayment requirement.]

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**10-A-2-3**      **VSIP is not VERA**

A "**Voluntary Separation Incentive Payment**" is not the same as a "**Voluntary Early Retirement Authority**" (**VERA**).

- (a) OPM approval of an agency's request for the VSIP option does not automatically provide the agency with VERA authority.
- (b) An agency must specifically request OPM approval of the VERA option.

- A**
- Subparagraph **10-A-4-5-(c)-(7)** covers a request for VERA as part of the agency's request to OPM for approval of the VSIP option.
  - OPM approval of VSIP for an agency does not change the minimum age and service requirements for VERA or other types of immediate retirement.

- ①
- Restructuring Information Handbook Module 9 ("**Voluntary Early Retirement Authority**") covers VERA.
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**10-A-2-4**      **VSIP Authority Under Other Statutes**

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As provided in section 1313(a)(3) of Public Law 107-296, any agency exercising VSIP authority in effect on January 24, 2003, may continue to offer Voluntary Separation Incentive Payments consistent with that authority until the authority expires. (5 CFR 576.105)

- An agency that is eligible to offer voluntary separation incentive payments under this authority and under any other statutory authority may choose which authority it wishes to use, or offer incentives under both. (5 CFR 576.105)
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### Section 3, VSIP Definitions

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**Introduction** This section covers the definition of which agencies are eligible to offer VSIP under the Homeland Security Act of 2002 (Public Law 107-296). This section also covers the definition of which employees are eligible for VSIP under the Act.

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**Contents** This section contains the following topics:

Topic	See Paragraph
Definition of Agency	10-A-3-1
Definition of Employee	10-A-3-2

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**Additional Information** ⓘ This symbol guides you toward more references on the subject in Module 10 or in other Modules.

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### **Section 3, VSIP Definitions**

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#### **10-A-3-1**      **Definition of Agency**

For purposes of authorizing VSIP under Public Law 107-296, **“Agency”** means an Executive agency as defined under section 5 U.S.C. 105. (5 U.S.C. 3521(1); 5 CFR 576.102)

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#### **10-A-3-2**      **Definition of Employee**

For purposes of eligibility for VSIP under Public Law 107-296, **“Employee”** means (5 CFR 576.102);

- (a) An employee defined under 5 U.S.C. 2105 who is employed by an **“Agency”** (5 U.S.C. 3521(2)(A)); and
- (b) An individual employed by a county committee established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act, as covered in 16 U.S.C. 590h(b)(5). (5 U.S.C. 3521(2)(A))
- (c) For purposes of eligibility for VSIP under Public Law 107-296, **“Employee”** does not include an employee or individual who:
  - (1) Is serving under an appointment with a time limitation (5 U.S.C. 3521(2)(A)(i));
  - (2) Has not been employed by the present agency for a continuous period of at least 3 years (5 U.S.C. 3521(2)(A)(ii));
  - (3) Is a reemployed annuitant under chapters 83 or 84 of title 5, U.S.C., or under another retirement system for employees of the United States Government (5 U.S.C. 3521(2)(B)(i));
  - (4) Has a disability and is or would be eligible for disability retirement under chapters 83 or 84 of title 5, U.S.C., or under another retirement system for employees of the United States Government (5 U.S.C. 3521(2)(B)(ii));

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- (5) Is in receipt of a decision notice of involuntary separation for misconduct or unacceptable performance (5 U.S.C. 3521(2)(B)(iii));
  - (6) Who previously received a VSIP from the Federal Government under any authority (5 U.S.C. 3521(2)(B)(iv));
  - (7) Who is covered by statutory reemployment rights who is on transfer employment with another organization (5 U.S.C. 3521(2)(B)(v));
  - (8) Who during the 36 month period preceding the date of separation for a VSIP performed service for which the agency has paid or will pay a student loan repayment benefit under 5 U.S.C. 5379 (5 U.S.C. 3521(2)(B)(vi)(I));
  - (9) Who during the 24 month period preceding the date of separation for a VSIP performed service for which the agency has paid or will pay a recruitment or relocation bonus under 5 U.S.C. 5753 (5 U.S.C. 3521(2)(B)(vi)(II));  
or
  - (10) Who during the 12 month period preceding the date of separation for a VSIP performed service for which the agency has paid or will pay a retention bonus under 5 U.S.C. 5754 (5 U.S.C. 3521(2)(B)(vi)(III)).
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## Section 4, Requesting OPM Approval of VSIP

**Introduction** This section covers the agency's right to make decisions concerning the VSIP option. This section also covers how an agency requests OPM approval to offer Voluntary Separation Incentive Payments under the Homeland Security Act of 2002 (Public Law 107-296).

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**Contents** This section contains the following topics:

Topic	See Paragraph
Management Right to Request VSIP	10-A-4-1
VSIP Request From Agency's Headquarters	10-A-4-2
Submitting a VSIP Request to OPM	10-A-4-3
OPM and OMB Review of Agency's VSIP Plan	10-A-4-4
Information in VSIP Request	10-A-4-5
Sample VSIP Request	10-A-4-6

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**Additional Information** When appropriate, Restructuring Information Handbook Module 10, Unit B (Guidance) has additional information on material in Unit 10-A.

To find additional information on this key paragraph in Unit 10-A,	In Unit 10-B see paragraph:
10-A-4-5-(c)	10-B-4-5-(c)
10-A-4-6	10-B-4-6

<p><b>B</b> This symbol highlights where you can find additional material in Unit 10-B.</p>
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<p><b>i</b> This symbol guides you toward more references on the subject in Module 10 or in other Modules.</p>
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## **Section 4, Requesting OPM Approval of VSIP**

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### **10-A-4-1      Management Right to Request VSIP**

The agency's rights include deciding: (5 U.S.C. § 7106(a))

- (a) Whether to request OPM approval to offer Voluntary Separation Incentive Payments;
  - (b) Which employees to cover in the Voluntary Separation Incentive Payment request to OPM;
  - (c) The window period(s) to offer Voluntary Separation Incentive Payments;
  - (d) The number of Voluntary Separation Incentive Payments covered by the agency's request to OPM;
  - (e) The amount of Voluntary Separation Incentive Payments covered by the request; and
  - (f) Whether to use a Voluntary Separation Incentive Payment plan approved by OPM.
- 

### **10-A-4-2      VSIP Request From Agency's Headquarters**

An agency's request for authority to offer Voluntary Separation Incentive Payments must be signed by: (5 U.S.C. 3522(a); 5 CFR 576.102(a))

- (a) The head of the agency; or
  - (b) A specific designee with delegated authority.
- 

### **10-A-4-3      Submitting a VSIP Request to OPM**



An agency submits its request for Voluntary Separation Incentive Payment authority under paragraph **10-A-4-2** above to the appropriate OPM Human Capital Performance Officer.

**10-A-4-4**      **OPM and OMB Review of Agency's VSIP Plan**

OPM will consult with the Office of Management and Budget (OMB) concerning an agency's plan to offer Voluntary Separation Incentive Payments. (5 U.S.C. 3522(c); 5 CFR 576.102(a))

- (a) OPM will notify the head of the agency when OPM approves the agency's plan to offer the payments. (5 U.S.C. 3522(c); 5 CFR 576.102(a))
  - (b) An agency may not offer Voluntary Separation Incentive Payments without OPM approval. (5 U.S.C. 3522(c); 5 CFR 576.102(a))
- 

**10-A-4-5**      **Information in VSIP Request**

The agency's request to OPM for approval of Voluntary Separation Incentive Payments must include either:

- (a) A plan outlining the intended use of the Voluntary Separation Incentive Payments, including a proposed organizational chart showing organizational goals after completion of the payments (5 U.S.C. 3522(a); 5 CFR 576.102(b)(1)); or
- (b) The agency's human capital plan.
  - The agency's human capital plan must outline the agency's intended use of the Voluntary Separation Incentive Payments. (5 U.S.C. 3522(a); 5 CFR 576.102(b)(2))
  - The agency's human capital plan must also outline the expected changes in the agency's organizational structure after the agency has completed the Voluntary Separation Incentive Payments. (5 U.S.C. 3522(a); 5 CFR 576.102(b)(2))



- (c) The agency's plan submitted under either subparagraph **10-A-4-5-(a)** or **-(b)** above must always include:
  - (1) Identification of the specific positions and functions to be reduced or eliminated, identified by organizational unit,

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- geographic location, occupational category, grade level and any other factors related to the position, such as skills and knowledge (5 U.S.C. 3522(b)(1); 5 CFR 576.102(c)(1));
- (2) A description of the categories of employees who will be offered incentives identified by organizational unit, geographic location, occupational category, grade level and any other factors, such as skills, knowledge, or retirement eligibility (5 U.S.C. 3522(b)(2); 5 CFR 576.102(c)(2));
  - (3) The time period during which incentives may be paid (5 U.S.C. 3522(b)(3); 5 CFR 576.102(c)(3));
  - (4) The number and maximum amounts of voluntary separation incentive payments to be offered (5 U.S.C. 3522(b)(4); 5 CFR 576.102(c)(4));
  - (5) A description of how the agency will operate without the eliminated or restructured positions and functions (5 U.S.C. 3522(b)(5); 5 CFR 576.102(c)(5));
  - (6) A proposed organizational chart displaying the expected changes in the agency's organizational structure after the agency has completed the incentive payments (5 U.S.C. 3522(a); 5 CFR 576.102(c)(6));
  - (7) If the agency has requested, or will request Voluntary Early Retirement Authority, a description of how that authority will be used in conjunction with separation incentives (5 CFR 576.102(c)(7)); and
  - (8) If the agency is offering separation incentives under any other statutory authority, a description of how that authority is being used (5 CFR 576.102(c)(8)).

**B** [See subparagraph **10-B-4-5-(c)** for additional guidance.]

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**10-A-4-6**

**Sample VSIP Request**

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The sample VSIP request in this Module may serve as a guide for an individual agency to develop a request appropriate for its own situation.

**B** [See paragraph **10-B-4-6** for additional guidance.]

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## Section 5, Offering VSIP To Employees

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**Introduction** This section explains the conditions under which an agency may offer Voluntary Separation Incentive Payments after OPM approves an agency's request for this authority under the Homeland Security Act of 2002 (Public Law 107-296).

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**Contents** This section contains the following topics:

Topic	See Paragraph
VSIP Offer Must Be Consistent With OPM-Approved Plan	10-A-5-1
Organizational Basis for VSIP Offers	10-A-5-2
VSIP Payment Only in Lump Sum After Voluntary Separation	10-A-5-3
Computation of VSIP	10-A-5-4
VSIP Not Considered in Other Payments	10-A-5-5
VSIP Funding Sources	10-A-5-6
Ensuring that VSIP Separations are Voluntary	10-A-5-7
Selecting Employees for VSIP	10-A-5-8
Processing VSIP Separations	10-A-5-9
Waiver of the Usual Participation Requirement to Continue Health Benefits into Retirement	10-A-5-10
Service Agreements and VSIP Separations	10-A-5-11
Sample VSIP Notices	10-A-5-12

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**Additional Information** When appropriate, Restructuring Information Handbook Module 10, Unit B (Guidance) has additional information on material in Unit 10-A.

To find additional information on these key paragraphs in Unit 10-A,	In Unit 10-B see paragraphs:
10-A-5-4-(c)	10-B-5-4-(c)
10-A-5-7-(c)	10-B-5-7-(c)
10-A-5-7-(d)	10-B-5-7-(d)
10-A-5-8-(b)	10-B-5-8-(b)
10-A-5-8-(c)	10-B-5-7-(c)
10-A-5-12-(a)-(e)	10-B-5-12-(a)-(e)

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**B** This symbol highlights where you can find additional material in Unit 10-B.

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**①** This symbol guides you toward more references on the subject in Module 10 or in other Modules.

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## **Section 5, Offering VSIP To Employees**

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### **10-A-5-1      VSIP Offer Must Be Consistent With OPM-Approved Plan**

An agency may offer a Voluntary Separation Incentive Payment only as authorized in the plan approved by OPM (5 U.S.C. 3523(a); 5 CFR 576.103(a)).

- ①
    - Paragraph **10-A-4-5** covers the information that an agency provides in the Voluntary Separation Incentive Payment plan submitted to OPM.
- 

### **10-A-5-2      Organizational Basis for VSIP Offers**

An agency may offer Voluntary Separation Incentive Payments only on the basis of organizational considerations such as:

- (a) One or more organizational units (5 U.S.C. 3523(b)(1)(A));
  - (b) One or more occupational series or levels (5 U.S.C. 3523(b)(1)(B));
  - (c) One or more geographical locations (5 U.S.C. 3523(b)(1)(C));
  - (d) The skills, knowledge or other factors related to a position (5 U.S.C. 3523(b)(1)(D));
  - (e) Specific periods of time during which eligible employees may elect to voluntarily separate by retirement or resignation for a Voluntary Separation Incentive Payment (5 U.S.C. 3523(b)(1)(E)); or
  - ① (f) Any appropriate combination of the five factors in subparagraphs **10-A-5-2-(a)-(e)** above (5 U.S.C. 3523(b)(1)(F)).
- 

### **10-A-5-3      VSIP Payment Only in Lump Sum After Voluntary Separation**

An agency may pay a Voluntary Separation Incentive Payment only:

- (a) In a lump sum (5 U.S.C. 3523(b)(2)) ; and

- (b) After the employee voluntarily separates by retirement or resignation (5 U.S.C. 3523(b)(4)).
- 

**10-A-5-4**

**Computation of VSIP**

An agency computes a Voluntary Separation Incentive Payment on the basis of the lesser of:

- (a) An amount equal to the amount of severance pay under 5 U.S.C. 5595(c) if the employee was entitled to this payment (5 U.S.C. 3523(b)(3)(A)); or
- The agency does not adjust the amount of the Voluntary Separation Incentive Payment on the basis of prior severance pay (5 U.S.C. 3523(b)(3)(A)).
- (b) An amount determined by the agency head, not to exceed \$25,000 (5 U.S.C. 3523(b)(3)(B)).
- (c) In counseling employees and providing VSIP estimates, the agency should stress that an employee who separates for a VSIP actually receives a net amount after mandatory withholding deductions, not the gross amount of the VSIP.

[See subparagraph **10-B-5-4-(c)** for additional guidance.]

- (d) In counseling employees interested in voluntarily separating for a VSIP, the agency should advise employees that the agency may reduce the gross amount of the VSIP for certain outstanding employee debts, including any:
- (1) Debt the employee owes to the agency;
  - (2) Commercial garnishment (including supplemental fees or court-ordered interest);
  - (3) Alimony covered by a court order; and
  - (4) Child support covered by a court order.
- 

**10-A-5-5**

**VSIP Not Considered in Other Payments**

An agency may not Use a Voluntary Separation Incentive Payment:

- (a) As a basis for payment, or include the incentive in the computation, of any other type of Government benefit (5 U.S.C. 3523(b)(5)); or
  - (b) In the computation of any severance pay to which an employee may be entitled under 5 U.S.C. 5595 based upon another separation from the Government (5 U.S.C. 3523(b)(6)).
- 

#### **10-A-5-6**

#### **VSIP Funding Sources**

An agency may pay a Voluntary Separation Incentive Payment only from appropriations or funds available for the basic pay of the employee who separates for the incentive (5 U.S.C. 3523(b)(7)) .

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#### **10-A-5-7**

#### **Ensuring that VSIP Separations are Voluntary**

The agency is responsible for ensuring that employees are not coerced into retiring or resigning to accept a VSIP, or that the employee's decision to separate was based upon erroneous or misleading information. (5 U.S.C. 3523(b)(4))

- (a) When announcing an opportunity to separate for a VSIP, the agency should inform its employees that separation by retirement or resignation for a VSIP is a voluntary action by the employee. (5 U.S.C. 3523(b)(4))
- (b) If an agency finds that an employee was coerced into separating by retirement or resignation for a VSIP, the agency has the responsibility to take appropriate corrective action.
- (c) An employee who separates by retirement or resignation for a VSIP, but who subsequently believes that the separation was actually involuntary, may appeal the basis for the separation to the Merit Systems Protection Board.
  - An employee may appeal the basis for the separation even if the employee signs a statement that the retirement or resignation is voluntary, and was not

coerced.

**B** [See subparagraph **10-B-5-7-(c)** for additional guidance.]

- ①**
- Unit **10-C** (“Voluntary Separation Incentive Payment Appeals”) includes reference decisions by the Merit Systems Protection Board, and the United States Court of Appeals for the Federal Circuit.

**B** (d) An agency's optional canvass letter to determine potential employee interest in a VSIP is not coercion, but is simply an accepted tool to help the agency meet its present and future staffing needs.

[See subparagraph **10-B-5-7-(d)** for additional guidance.]

---

#### **10-A-5-8**      **Selecting Employees for VSIP**

An agency must accept VSIP applications from all employees eligible under the OPM-approved plan. (5 U.S.C. 3523(b)(1))

- ①**
- Paragraph **10-A-5-2** covers the nonpersonal (rather than personal) basis for VSIP offers.
- (a) The agency must limit the number of actual separations for a VSIP to no more than the number in the OPM-approved VSIP plan. (5 U.S.C. 3522(b)(4))
- Subparagraph **10-A-4-5-(c)-(4)** explains that the agency's VSIP request to OPM must include the number and maximum amounts of the Voluntary Separation Incentive Payments that the agency will offer to employees.
- (b) At its option, the agency may administratively implement a procedure to determine which employees may separate for a VSIP when more employees apply for a VSIP than the agency can offer.

**B** [See subparagraph **10-B-5-8-(b)** for additional guidance.]

(c) At its option, the agency may administratively implement a

policy that allows:

- (1) All employees to subsequently decline separating by retirement or resignation for a VSIP even after the employee signs the applicable forms;
- (2) No employees to subsequently decline separating by retirement or resignation for a VSIP even after the employee signs the applicable forms; or
- (3) On a case basis for a reason such as hardship and specific agency approval as an exception, employees to subsequently decline separating by retirement or resignation for a VSIP even after the employee signs the applicable forms.

**B**

[See subparagraph **10-B-5-7-(c)** for additional guidance and appeals decisions on subparagraphs **(c)(1)-(3)**.]

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#### **10-A-5-9**

#### **Processing VSIP Separations**

**①**

The “Guide to Processing Personnel Actions” contains processing instructions for VSIP separations.

- (a) For employees retiring with a VSIP under the VERA option, the Guide states that Authority Code “ZLM/P.L. 107-296, VERA No. and date” covers employees under the Civil Service Retirement System.
- (b) For employees retiring with a VSIP under the VERA option, the Guide states that Authority Code “USM/5USC Chapter 84 and AZM/OPM Office, VERA No. and date” covers employees under the Federal Employees Retirement System.
- (c) For regular optional retirements, follow the instructions in Chapter 30 of the Guide.
- (d) For resignations, see Chapter 31 of the Guide.
- (e) The Guide states that the agency may use blocks 6A through – D of the same Standard Form 50 to record receipt of the VSIP using Nature of Action “825/Separation Incentive” and Authority

Code “ZAA/P.L. 107-296” to record the employee’s receipt of the VSIP.

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**10-A-5-10**      **Waiver of the Usual Participation Requirement to Continue Health Benefits into Retirement**

① Benefits Administration Letter (BAL) 00-220, dated November 7, 2000, covers “Federal Employees Health Benefits (FEHB) Program: Waivers of the Participation Requirement for Employees Retiring During an Agency Buyout Period.”

- BAL 00-220 covers 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](http://www.opm.gov).
- 

**10-A-5-11**      **Service Agreements and VSIP Separations**

An agency should request an interpretation from its legal staff before deciding whether to release from a service agreement an employee who is interested in separating for a VSIP.

- Common service agreements cover an employee’s obligation to perform service with the agency for a specific period of time following training, relocation, or similar situations.
- 

**10-A-5-12**      **Sample VSIP Notices**

The five sample VSIP notices in this Module may serve as a guide for an individual agency to develop notices appropriate for its own situation:

- (a) Sample notice announcing the VSIP plan to agency employees;

[See subparagraph **10-B-5-12-(a)** for this sample notice.]

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**B**

(b) Sample VSIP retirement survey notice;

[See subparagraph **10-B-5-12-(b)** for this sample notice.]

**B**

(c) Sample VSIP resignation survey notice;

[See subparagraph **10-B-5-12-(c)** for this sample notice.]

**B**

(d) Sample application to separate by retirement for a VSIP; and

[See subparagraph **10-B-5-12-(d)** for this sample notice.]

**B**

(e) Sample application to separate by resignation for a VSIP.

**B**

[See subparagraph **10-B-5-12-(e)** for this sample notice.]

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## Section 6, Agency Management of VSIP

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**Introduction** This section covers the requirement that an agency must notify OPM of any changes in the conditions that served as the basis for OPM approving authority for Voluntary Separation Incentive Payments under the Homeland Security Act of 2002 (Public Law 107-296). This section also covers the interim and final reports that each agency with authority for VSIP must submit to OPM.

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**Contents** This section contains the following topics:

Topic	See Paragraph
Notifying OPM of VSIP Changes	10-A-6-1
Scheduled VSIP Reports to OPM	10-A-6-2

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<p><b>①</b> This symbol guides you toward more references on the subject in Module 10 or in other Modules.</p>
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## **Section 6. Agency Management of VSIP**

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### **10-A-6-1      Notifying OPM of VSIP Changes**

After OPM approves an agency's plan to offer Voluntary Separation Incentive Payments, the agency is required to immediately notify OPM of any subsequent changes in the conditions that served as the basis for the Authority. (5 CFR 576.104(a))

- OPM will consult with the Office of Management and Budget, and notify the agency in writing of any changes in the agency's plan to offer Voluntary Separation Incentive Payments. (5 CFR 576.104(a))
- 

### **10-A-6-2      Scheduled VSIP Reports to OPM**

After OPM approves an agency's plan to offer Voluntary Separation Incentive Payments, the agency is required to provide OPM with interim and final reports on the authority. (5 CFR 576.104(b))

- (a) OPM's approval letter to the agency contains the reporting requirements for a Voluntary Separation Incentive Payment. (5 CFR 576.104(b))
  - (b) OPM may suspend or cancel an agency's authority to offer Voluntary Separation Incentive Payments if OPM finds that the agency did not comply with either the reporting requirements or reporting schedule contained in OPM's letter approving the agency's plan. (5 CFR 576.104(b))
-

## Section 7, Repayment Requirement for Reemployment After VSIP Separation

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**Introduction** This section covers the general repayment obligation of a former employee who separated for a Voluntary Separation Incentive Payment under the Homeland Security Act of 2002 (Public Law 107-296), and is reemployed by the Government of the United States. The former employee must repay the gross amount of the VSIP to the agency if the individual is reemployed by the Government of the United States within 5 years of separation. This section also covers the repayment obligation for reemployment after receiving a VSIP under other statutory authorities.

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**Contents** This section contains the following topics:

Topic	See Paragraph
Definition of Employment	10-A-7-1
General Obligation to Repay VSIP Under Public Law 107-296 if Reemployed Within 5 Years	10-A-7-2
General Obligation to Repay VSIP Before Reemployment Under Other Statutory Authority	10-A-7-3

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 This symbol guides you toward more references on the subject in Module 10 or in other Modules.

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## **Section 7, Repayment Requirement for Reemployment After VSIP Separation**

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### **10-A-7-1      Definition of Employment**

For purposes of the VSIP repayment obligation under Public Law 107-296, “**Employment**” means any employment:

- (a) For compensation with the Government of the United States (5 U.S.C. 3524(b); 5 CFR 576.202(a)); and
  - (b) Under a personal services contract or other direct contract with the Government of the United States, but not with a legislative branch entity (5 U.S.C. 3524(b); 5 CFR 576.202(a)).
- 

### **10-A-7-2      General Obligation to Repay VSIP Under Public Law 107-296 if Reemployed Within 5 Years**

An employee who voluntarily separated for a VSIP under Public Law 107-296 and accepts employment with the Government of the United States within 5 years after the date of separation must repay the gross amount of the VSIP to the agency that paid the incentive. (5 U.S.C. 3524(b); 5 CFR 576.202(a)).

- The former employee must repay the entire amount of the VSIP before the individual’s first day of reemployment. (5 U.S.C. 3524(b); 5 CFR 576.202(a)).
- ①
- Paragraph **10-1-7-1** above contains the definition of “Employment” for purposes of the VSIP repayment requirement under Public Law 107-296.
- 

### **10-A-7-3      General Obligation to Repay VSIP Before Reemployment Under Other Statutory Authority**

An executive branch employee who voluntarily separated for a VSIP on or after March 30, 1994, under statutory authority other than Public Law 107-296 and accepts employment with the Government of the United States within 5 years after the date of separation should refer to

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the statute for the VSIP to determine:

- (a) The former employee's obligation to repay the VSIP (5 U.S.C. 3524(b); 5 CFR 576.202(b)); and
  - (b) Whether the obligation requires repayment of the entire amount of the VSIP before the first day of employment (5 U.S.C. 3524(b); 5 CFR 576.202(b)).
-

## Section 8, Waiver of the VSIP Repayment Requirement

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**Introduction** This section covers the repayment waiver option under the Homeland Security Act of 2002 (Public Law 107-296). An executive branch agency may request OPM to waive the general obligation to repay a Voluntary Separation Incentive Payment if an agency has a critical need to hire a former employee. This section also covers repayment waivers under the Act for reemployment in both the legislative and judicial branches. Finally, this section covers waivers of repayment waivers under other statutory VSIP authorities.

---

**Contents** This section contains the following topics:

Topic	See Paragraph
OPM Waiver of the Public Law 107-296 VSIP Repayment Requirement for Executive Branch Reemployment	10-A-8-1
OPM Waiver Does Not Include Contract Service	10-A-8-2
Waiver of the Public Law 107-296 VSIP Repayment Requirement for Legislative Branch Reemployment	10-A-8-3
Waiver of the Public Law 107-296 VSIP Repayment Requirement for Judicial Branch Reemployment	10-A-8-4
Waiver of the VSIP Repayment Requirement Under Other Statutes	10-A-8-5
Submitting a VSIP Repayment Waiver Request to OPM	10-A-8-6

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**Additional Information in Unit A:** When appropriate, this section in Restructuring Information Handbook Module 10, Unit A, references other sections in Unit 10-A for more detailed information on specific VSIP topics.

To find additional information in this Module on this key paragraph in Unit 10-A,	In Unit 10-A see section or paragraph:
10-A-8-1	10-A-8-6

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 This symbol guides you toward more references on the subject  
in Module 10 or in other Modules.

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## **Section 8, Waiver of the VSIP Repayment Requirement**

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### **10-A-8-1**

#### **OPM Waiver of the Public Law 107-296 VSIP Repayment Requirement for Executive Branch Reemployment**

- ① The head of an executive branch agency may request OPM to waive the VSIP repayment obligation under Public Law 107-296 that is covered in Section **10-A-7** if:
- (a) The individual seeking reemployment possesses unique abilities and is the only qualified applicant available for the position (5 U.S.C. 3524(c)(1)(A); 5 CFR 576.203(a)(1)); or
  - (b) In the case of an emergency involving a direct threat to life or property, the individual seeking reemployment--
    - (1) Has skills directed related to resolving the emergency (5 U.S.C. 3524(c)(1)(B)(i); 5 CFR 576.203(a)(1)); and
    - (2) Will serve on a temporary basis only so long as that individual's services are made necessary by the emergency (5 U.S.C. 3524(c)(1)(B)(ii); 5 CFR 576.203(a)(1)).
  - (c) The option of requesting a waiver of the VSIP repayment obligation under Public Law 107-296 does not include;
    - (1) The General Accounting Office (5 U.S.C. 3524(c)(1); 5 CFR 576.203(a)(1));
    - (2) The Postal Service (5 U.S.C. 3524(c)(1); 5 CFR 576.203(a)(1); or
    - (3) The Postal Rate Commission (5 U.S.C. 3524(c)(1); 5 CFR 576.203(a)(1)).
- 

### **10-A-8-2**

#### **OPM Waiver Does Not Include Contract Service**

OPM may not waive the VSIP repayment obligation under Public Law 107-296 for reemployment with the Government of the United States under a personal services contract or other direct contract with the

Government of the United States (5 U.S.C. 3524(b); 5 CFR 576.202(a)(2)).

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**10-A-8-3**

**Waiver of the Public Law 107-296 VSIP Repayment Requirement for Legislative Branch Reemployment**

For employment in the legislative branch, the head of the legislative branch entity or appointing official may waive the VSIP repayment obligation of the former executive branch employee under Public Law 107-296 if the individual seeking reemployment (5 U.S.C. 3524(c)(2); 5 CFR 576.203(a)(1)):

- (a) Possesses unique abilities; and
  - (b) Is the only qualified applicant available for the position.
  - (c) The head of the legislative branch entity or appointing official may also waive the VSIP repayment obligation under Public Law 107-296 if the waiver is based upon reemployment with the Government of the United States under a personal services contract or other direct contract with the Government of the United States. (5 U.S.C. 3524(c)(2); 5 CFR 576.203(a)(1))
- 

**10-A-8-4**

**Waiver of the Public Law 107-296 VSIP Repayment Requirement for Judicial Branch Reemployment**

For employment in the judicial branch, the head of the judicial branch entity or appointing official may waive the VSIP repayment obligation of the former executive branch employee under Public Law 107-296 if the individual seeking reemployment: (5 U.S.C. 3524(c)(3); 5 CFR 576.203(a)(1))

- (a) Possesses unique abilities; and
- (b) Is the only qualified applicant available for the position.
- (c) The head of the judicial branch entity or appointing official may not waive the VSIP repayment obligation under Public Law 107-296 if the waiver is based upon reemployment with the Government of the United States under a personal services contract or other direct contract with the Government of the

United States. (5 U.S.C. 3524(c)(3); 5 CFR 576.203(a)(1))

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**10-A-8-5**      **Waiver of the VSIP Repayment Requirement Under Other Statutes**

For a VSIP authorized under authority other than Public Law 107-296, the hiring entity (potentially including all three branches of Government) should review the statute that authorized the buyout to determine: (5 CFR 576.203(a)(1))

- (a) If a waiver is permitted under the controlling statute; and
  - (b) How to submit a waiver request.
- 

**10-A-8-6**      **Submitting a VSIP Repayment Waiver Request to OPM**

An agency submits its request for a VSIP repayment waiver under paragraph **10-A-8-1** above to the appropriate OPM Human Capital Performance Officer.

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