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19 DEC 1967

MEMORANDUM FOR: Executive Director-Comptroller

THROUGH : Deputy Director for Support

SUBJECT : Contract Reemployment of Annuitants

1. Upon my return from leave I learned that there was an urgent need to establish more precise concepts and policies regarding the contractual employment of annuitants. Upon review of the paper submitted by my Office, I became convinced that the paper under consideration, if published, would not achieve the purposes intended.

2. In terms of Agency retirement policy, Agency employees are equally (if not more) critical and resentful of the continuation of selected employees in service beyond retirement age as they are to contractual employment of retirees. Regarding the latter group, the true point of resentment lies with the possibility that retired contract employees will continue to serve in Agency facilities performing staff-type duties. The appearance is one of pro forma compliance with policy. The proposed issuance does nothing to alleviate suspicion on this point or the probability that this will happen.

3. In addition, I found the paper under consideration incomplete and inconsistent in policy considerations and inherently in conflict with accepted government policies and practices in establishing appropriate compensation.

4. I therefore undertook to prepare a substantially reoriented paper which, however, contains all of the elements of the original together with additional material which I consider essential.

5. My offering has been hastily and laboriously prepared and it may require considerable polishing. In view of the urgency to establish basic guidelines for compensation for the contractual employment of annuitants and the level of approvals required, the immediate attention of those concerned would be limited to those critical points.

6. At Tab A there is attached my basic analysis of the situation that exists today and my conclusions as to what must be done at a minimum to protect present policy and, at the same time, permit the Agency to continue to use the services of selected individuals beyond retirement age where urgently needed.

7. Tab B is my revised issuance which I recommend be considered at least with regard to the policy and compensation questions requiring immediate resolution.

25X1

Emmett D. Echols
Director of Personnel

Atts: 2

Excluded from automatic downgrading and declassification

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DEC 1967

MEMORANDUM FOR: Deputy Director for Intelligence
Deputy Director for Plans
Deputy Director for Science and Technology
Deputy Director for Support
General Counsel
Inspector General

SUBJECT : Proposed Notice - Employment after Retirement

1. The attached package presents a proposed Notice entitled "Employment after Retirement Age." It is intended to replace the Notice "Contractual Employment of Annuitants" which has been under consideration by the Committee comprised of the addressees and chaired by the Executive Director. This substitution embraces the problem of contractual employment of annuitants but expands the issuance to embrace the full scope of the issues requiring more uniform control.

2. The Executive Director has reviewed the proposed issuance and has asked me to get it to you immediately and to request your prompt review. He asks that you advise me as soon as possible whether you have any major disagreement with the policies set forth. If none of you do, it is his intention to convene the Committee early this week to iron out minor differences and deficiencies.

3. If at all possible, I would like your response on 13 December.

/s/ Emmett D. Echols

Emmett D. Echols
Director of Personnel

Att.
Distribution:
1 - Each Addressee
1 - ExDir-Compt
2 - D/Pers
OD/Pers/EDEchols:hc (12 Dec 67)

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EXTENDED USE OF EMPLOYEES AFTER AGE SIXTY

BACKGROUND

1. The Agency is carrying out a policy to retire all staff employees at age 60. The policy reflects a conviction that the mission of the Agency is of such importance as to require the maintenance of an optimum level of effectiveness. A corollary conviction is that most employees have "peaked out" some years before attaining age 60 and that after age 60 they will collectively impair the vitality and viability of the Agency to a degree warranting retirement.

2. The policy, to date, has been judged to be administratively manageable only if applied equally to all personnel and without regard to level of work, diversity of function, or current performance effectiveness of individuals.

3. The Agency, notwithstanding this policy, does not intend to deny itself the continuing use of any employee arriving at or subsequent to retirement if the need for the individual's particular knowledge, skills, or other qualifications is sufficiently critical to withstand charges of discrimination by the mass of employees not so favored.

4. The Agency has acknowledged that induced retirement at age 60 may create acute hardship for some employees and where such conditions are found to exist the Agency is prepared, insofar as possible, to mitigate the problem by extensions in service in either a staff or contractual capacity or to provide external job-finding assistance.

5. In practice, though not by stated policy, the Agency has been lenient in extending in service employees where the level of responsibility is low, the individual's performance is as high as one would expect in a younger replacement, where lines of career progression of others is not being blocked and retirement would merely create a recruitment problem (chauffeurs, receptionists, etc.).

6. The Agency operates under two retirement systems, one of which permits voluntary or involuntary retirement as early as age 50 and legally requires retirement at age 60 for all but GS-18's. By policy decision the latter are also expected to retire at age 60. This retirement system has a slightly preferential formula for establishing annuities in consideration for the acceptance and performance of its participants of unusual obligations and conditions of service.

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7. Because each of these retirement systems involves different administrative concepts and mechanisms and because of divergent views of senior Agency officials, the Agency has not developed and set forth a set of standards to be applied in determining whether the need for a given individual's services is so critical as to warrant his continuing use after age 60. Neither have any standards constituting unreasonable hardship been established. The administrative concept in being has been to make subjective judgments on each case. Such judgments are collectively made by senior operating officials and a retirement board. Final decision has been reserved inconsistently to the Director, the Executive Director, or the Deputy Directors, depending upon which retirement system is involved and whether the individual is proposed for continuation in service, post-retirement recall, or is to be retained or rehired under contract.

CONCLUSIONS

So long as Agency policy remains unchanged there is a compelling need to do the following:

a. Develop, publicize, and apply strict standards for the employment of persons in any employee capacity beyond age 60 and place the authority with a single senior official (the Director or Executive Director). This will minimize divergency of interpretation of announced standards, transfer pressures outside the using Directorate and minimize skepticism and challenge regarding Agency integrity.

b. Since the retirement policy only applies to staff employees, it may be desirable to establish far more lenient standards and lower levels of authorization for:

(1) Continuations in service of less than one year.

(2) Contractual employment in operational activities and in non-staff and non-ceiling positions to be performed outside Agency facilities.

(3) Independent Contractor tasks and services performed on a part-time or intermittent basis.

This will facilitate the orderly completion or accomplishment of "wind up" duties or the ready satisfaction of operational requirements for services outside of the area of normal employee activities and observations.

c. Establish principles which will ensure that compensation in any form will be related solely to the level of work to be performed and the time expended thereon. Former employee salaries, to the extent they reflect command and organizational responsibilities

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should be disregarded. In addition to proper classification of the duties to be performed as the basic control there should be a maximum set at no higher than the top salary of GS-15. For jobs or duties set at GS-13, 14 and 15 the individual should probably not receive more than the top of the grade below his prior employee grade if this grade was based in part on inherent command or supervisory responsibilities.

d. All employees should be made aware of the limited availability of opportunities to use their services after age 60, the strict standards of "need for services" that have been established, and should have a designated place where they can inquire about opportunities and to offer their services.

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TAB B

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PERSONNEL

EMPLOYMENT AFTER RETIREMENT AGE

1. GENERAL

a. Upon retirement, employees are expected to sever active connections with the Agency. There will be instances, however, in which continuation in service is necessary or clearly in the best interests of the Agency.

b. There are four ways in which the services of an employee may be continued after reaching retirement age:

(1) His appointment may be extended upon approval of the Director [redacted] 25X1

(2) The employee after retirement may be reemployed with or without a break in service by an appointment of specified duration [redacted] or by recall by the Director [redacted] 25X1 25X1

(3) The employee's staff status may be converted to that of contract employee prior to retirement. Such conversion will usually continue normal employee benefits such as retirement, FEGLI, and Health Benefits during the term of the contract.

(4) The employee, after retirement, may be rehired as a contract employee, independent contractor or consultant.

2. POLICY

a. Continuation in Service beyond Retirement Age

(1) An employee may be extended in service as a staff employee /1b.(1) above/ or may be converted to contract employee /1b.(3) above/ only when the individual has skills and knowledge

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urgently required by the Agency and not available in other personnel on a timely basis. Requests shall be explained and attested to by the Operating Official concerned and shall require the approval of the Director. Extensions shall be for a stipulated term, usually not more than one year unless renewed.

(2) In instances where there are personal circumstances which clearly substantiate that retirement will constitute an extraordinary personal hardship and it is established that the individual can be fully employed, the employee may be retained in service with the approval of the Director. Requests should be submitted at the earliest possible date to the Director of Personnel.

b. Reappointments

Persons who have optionally retired earlier than Agency retirement age may be reappointed if there is a requirement for their particular skills and knowledge not available among on-duty personnel on a timely basis. Such reappointment will be for a stipulated term not to exceed the date of attainment of Agency retirement age. Continuation in service thereafter shall be in accordance with 1, 2 or 3 above.

c. Original Appointments

Persons beyond Agency retirement age will not be originally appointed without the approval of the Director. Such approval will only be granted where the individual possesses rare and outstanding qualifications which the Agency requires.

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d. Contractual Employment of Annuitants

(1) No contract employee shall perform staff-type duties, i.e., duties commonly performed by staff employees and normally represented by organizational positions. With this exclusion, annuitants, whether retired from this Agency or any other agency of the Government, may be hired and used in any appropriate contractual capacity for which there is a requirement and for which they are preeminently qualified. The Director of Personnel shall monitor all contract employee assignments with respect to appropriateness of duties to be performed.

(2) Contracts of employment with annuitants may be written for a period not to exceed two years and will normally contain a 30-day termination clause. Renewals will be based on and justified by evidence of continuing need and demonstrated effectiveness of the annuitant. Requests for renewal will so attest and be approved by the Deputy Director concerned.

3. COMPENSATION PRINCIPLES AND GUIDELINES

a. Employees Extended in Service

(1) The classification of the position to be occupied shall dictate the grade of an employee extended in service beyond retirement age. If the grade of the position is lower than that of the employee, his grade will be adjusted in accordance with the provisions of the Salary Retention Act.

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b. Contractual Employment of Annuitants

(1) The classification of staff positions, particularly in the upper grades, is preponderantly based upon managerial, organizational and supervisory responsibilities. Since contract employees may not perform staff-type duties, these elements of position classification will not normally be present to an equivalent degree in the contractual position, although the latter may have its own similar responsibilities. Accordingly, the gross contractual salary of a reemployed annuitant will normally be lower than that held as a staff employee.

(2) The gross contractual salary of a reemployed annuitant will be determined solely by the nature of the duties he performs. Excepting where a higher classification is established by formal position classification processes and approved by the Director of Personnel, gross contractual salary may not exceed the lesser of:

(a) The current salary of the grade and step held by the employee at the time of his retirement.

(b) An amount equal to the current top step of grade GS-15.

(c) An amount equal to the top step of the grade below that held at the time of retirement. This is in recognition of normally reduced managerial and organizational responsibilities.

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(3) When the contract employee is employed less than full time, he shall be paid on a "when actually employed" basis.

c. Under present law when a civilian Government employee, retired for longevity, is rehired as an employee, his annuity continues but his gross contractual salary is reduced by the amount of the annuity received. A reemployed annuitant may not receive a combination of salary payments and annuity payments which exceed the gross contractual salary of the duties he performs during the period of his reemployment.

d. Annuitants Engaged as Independent Contractors

(1) The contractual fee paid an annuitant under an independent contractor agreement will be determined by the nature and value of the services to be rendered except that the individual's retirement annuity plus the contractual fees paid him during the contract year normally may not exceed the lesser of:

(a) The current salary of the grade and step held by the annuitant at the time of his retirement; or

(b) An amount equal to the current salary of the top step of grade GS-15; or

(c) An amount equal to the current salary of the top step of the grade below that held at the time of retirement.

(2) Unless there is a clear and overriding operational justification, no housing expenses, cost-of-living expenses, or other payments in the nature of benefits and perquisites commonly accorded employees shall be authorized.

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(3) Operational expenses must be specifically authorized in advance by the appropriate authority.

(4) The contract shall include a clause stating that on request of the Government the individual shall submit to a medical evaluation by a mutually agreed upon physician.

(5) The independent contractor must not, in fact, be used as an employee. To do so will invalidate the contract and may result in requiring the individual to repay a portion of the fee received under the contract. The independent contractor will be expected to perform tasks or hold himself available to perform them. Although general performance will be monitored, no regular day-to-day Agency supervision will be exercised.

(6) A report on the effectiveness of the independent contractor's performance shall be prepared by the responsible official during the ninth month after the date of the contract and annually thereafter for its duration. The report shall be reviewed by the Operating Official concerned. All copies of the fitness report will be retained within the directorate.

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Executive Registry

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PERSONNEL

EMPLOYMENT AFTER RETIREMENT AGE

20 Dec '67

1. GENERAL

a. Upon retirement, employees are expected to sever active connections with the Agency. There will be instances, however, in which continuation in service is necessary or clearly in the best interest of the Agency.

b. There are four ways in which the services of an employee may be continued after reaching retirement age:

(1) His appointment may be extended upon approval of the Director [redacted] 25X1

(2) The employee after retirement may be reemployed with or without a break in service by an appointment of specified duration 25X1 [redacted] or by recall by the Director [redacted] 25X1

(3) The employee's staff status may be converted to that of contract employee prior to retirement. Such conversion will usually continue normal employee benefits such as retirement, FEGLI, and Health Benefits during the term of the contract.

(4) The employee, after retirement, may be rehired as a contract employee, independent contractor or consultant.

2. POLICY

a. Continuation in Service beyond Retirement Age

(1) An employee may be extended in service as a staff employee [1b.(1) above] or may be converted to contract employee status

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to perform staff-type duties [1b.(3) above] only when the individual has skills and knowledge required by the Agency and not available in other personnel on a timely basis. Requests shall be explained and attested to by the Operating Official concerned and shall require the approval of the Director. Extensions shall be for a stipulated term, usually not more than one year unless renewed.

(2) In instances where there are personal circumstances which clearly substantiate that retirement will constitute an extraordinary personal hardship and it is established that the individual can be fully employed, the employee may be retained in service with the approval of the Director. Requests should be submitted at the earliest possible date to the Director of Personnel.

b. Reappointments

Persons who have optionally retired earlier than Agency retirement age may be reappointed if there is a requirement for their particular skills and knowledge not available among on-duty personnel on a timely basis. Such reappointment will be for a stipulated term not to exceed the date of attainment of Agency retirement age. Continuation in service thereafter shall be in accordance with 1b. (1), (2) or (3) above.

c. Original Appointments

Persons beyond Agency retirement age will not be originally appointed without the approval of the Director. Such approval will only be

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granted where the individual possesses rare and outstanding qualifications which the Agency requires.

d. Contractual Employment of Annuitants

(1) No contract employee shall perform staff-type duties. Such duties are defined as employee duties performed in Agency facilities, using classified Agency materials and performed pursuant to instructions and supervision of staff employees, unless positions requiring such duties have been provided for in approved projects or have otherwise been exempted from ceiling and other staff manpower controls. With this exclusion, annuitants, whether retired from this Agency or any other agency of the Government, may be hired and used in any appropriate contractual capacity for which there is a requirement and for which they are preeminently qualified. The Director of Personnel shall monitor all contract employee assignments with respect to appropriateness of duties to be performed.

(2) Contracts of employment with annuitants will normally be written for a term of one year and contain a 30-day termination clause. Renewals will be based on and justified by evidence of continuing need and by demonstrated effectiveness of the annuitant. Requests for renewal will so attest and be approved by the Operating Official concerned.

3. COMPENSATION PRINCIPLES AND GUIDELINES

a. Employees Extended in Service

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(1) The classification of the position to be occupied shall dictate the grade of an employee extended in service beyond retirement age. If the grade of the position is lower than that of the employee, his grade will be adjusted in accordance with the provisions of the Classification Act of 1949, as amended.

b. Contractual Employment of Annuitants

(1) The classification of staff positions, particularly in the upper grades, is preponderantly based upon managerial, organizational and supervisory responsibilities. Since contract employees may not perform staff-type duties, these elements of position classification will not normally be present to an equivalent degree in the contractual position, although the latter may have its own similar responsibilities. Accordingly, the gross contractual salary of a reemployed annuitant will normally be lower than that held as a staff employee.

(2) The grade of the job to be performed by a reemployed annuitant will be established by normal position classification procedures. If in excess of grade GS-15, the approval of the Director of Central Intelligence is required. The salary to be paid for any grade so established shall be negotiated with due regard to the special qualifications of the individual relative to the

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requirements of the assignment, the effort required of the individual, and in no case may it exceed that of the step closest to ninety percent of the current salary of the individual's grade and step at time of retirement.

c. Under present law when a civilian Government employee, retired for longevity, is rehired as an employee, his annuity usually continues but his gross contractual salary is reduced by the amount of the annuity received. A reemployed annuitant may not receive a combination of salary payments and annuity payments which exceed the gross contractual salary of the duties he performs during the period of his reemployment.

d. Annuitants Engaged as Independent Contractors

(1) The contractual fee paid an annuitant under an independent contractor agreement will be determined by the nature and value of the services to be rendered except that the individual's retirement annuity plus the contractual fees paid him during the contract year normally may not exceed ninety percent of the current salary of the grade and step held by the annuitant at the time of his retirement.

(2) Unless there is a clear and overriding operational justification, no housing expense, cost-of-living expense, or other payments in the nature of benefits and perquisites commonly accorded employees shall be authorized.

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(3) Operational expenses must be specifically authorized in advance by the appropriate authority.

(4) The contract shall include a clause stating that on request of the Government the individual shall submit to a medical evaluation by a mutually agreed upon physician.

(5) The independent contractor must not, in fact, be used as an employee.

(6) An Agency official shall be designated as responsible for monitoring the performance of each independent contractor and to attest annually that the terms of the contract have been met and that full value has been received. Instances of unsatisfactory performance or insufficient value received shall be corrected promptly.

Handwritten by Col. White: Approved

20 Dec 67

/s/ L. K. White

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