

Secretary

U.S. Department of Homeland Security
Washington, DC 20528**Homeland
Security**

February 13, 2008

The Honorable Bennie G. Thompson
Chairman
Committee on Homeland Security
U.S. House of Representatives
H2-176 Ford House Office Building
Washington, D.C. 20515

Dear Chairman Thompson:

Thank you for your letter of January 18, 2008, concerning the Department of Homeland Security (DHS) and the Office of Personnel Management's (OPM) efforts to implement section 535 of Public Law 110-161, which provides enhanced retirement benefits for U.S. Customs and Border Protection (CBP) officers under the Civil Service Retirement System (CSRS) and the Federal Employees' Retirement System (FERS). As you know, the President's Budget includes language that would repeal section 535 and rescind the funding enacted for 2008. It also does not provide funding for the benefit in 2009. CBP Officers serve vitally important roles ensuring the safety of our borders. However, the Administration opposes placing them in the enhanced benefits category established for law enforcement officers and criminal investigators. Although the Administration is seeking to repeal the provision, let me assure you that the Department intends to abide by current law. The Department has been working cooperatively with OPM to prepare to implement the requirements as set forth in the new statute should it not be repealed. I have enclosed letters exchanged between our agencies that provide an overview of the many activities we are undertaking toward that end.

In your letter, which was addressed to both Director Springer and to me, you asked five specific questions concerning implementation activities. I offer the following responses:

1. *What steps has DHS taken to meet the early July 2008 deadline for full implementation of this provision? Has DHS assembled the necessary information to meet the statutory deadline? If not, why not?*

DHS staff has been in near daily contact with OPM staff. We are in receipt of a comprehensive statutory analysis of the legislation which provides all of the policy information needed to implement. At present, we are working with OPM to identify and document the payroll and retirement systems data and processing requirements that will be necessary for implementation, as well as finalizing detailed informational packages and election forms for the employees.

2. *What is OPM's plan to meet the statutory requirement that it notify eligible CBP Officers by January 26, 2008 of this new retirement benefit to ensure that they can make a timely and informed decision about their participation?*

The enclosed letters between OPM and DHS staffs reflect that "...measures reasonably designed to ensure that incumbents are notified as to their election rights..." have been taken as required by section 535 (e)(3)(B). Progress continues to be made toward the completion of the implementation activities, and we will ensure that employees receive the most comprehensive and accurate information possible.

3. *To what extent will the notification from OPM of the new benefit include technical guidance, benefit calculations and a description of CBP Officers' rights under the law?*

DHS and CBP human resources staffs are presently working with OPM to ensure that the CBP Officers receive the information they will need to make informed decisions. This includes informational packages transmitting an election of coverage form; the establishment of a telephone hot line number and email box for employees to call or write with questions; and the acquisition of temporary retirement counseling staff to supplement CBP's cadre of counselors who will respond to the many inquiries and requests for personalized benefits counseling that we anticipate from the Officers.

4. *To date, have there been any formal or informal efforts to coordinate efforts between DHS and OPM to implement the provision? If not, why not?*

The enclosed letters indicate our formal communications with OPM.

5. *Have you determined whether new regulations will be necessary to implement the provision? If so, what is the schedule for issuing these regulations so the early July 2008 implementation deadline is fully met?*

It is my understanding that regulations will be issued by OPM; however, I will defer to Director Springer concerning the time frame in which they will be published.

As my responses to your specific questions make clear, we are proceeding with implementing current law until repeal is enacted. I look forward to continuing to work with you and the Committee on all matters of mutual concern. My staff is available to brief you on these issues at your convenience. Thank you for this opportunity to respond to your interest in this matter.

Sincerely,



Michael Chertoff

Enclosures

cc: OPM Director Linda Springer

Office of Chief Human Capital Officer
U.S. Department of Homeland Security
Washington, DC 20528



Homeland Security

January 22, 2008

Ms. Nancy Kichak
Associate Director
Strategic Human Resources Policy
1900 E Street, NW
Washington, DC 20415

Dear Ms. Kichak:

The purpose of this letter is to inform you concerning activities related to the implementation of section 535 of Division E, (the Department of Homeland Security Appropriations Act of 2008) Public Law 110-161, and to seek your approval for our proposed procedures for advising employees of their right of election. As you are aware, section 535 provides special retirement coverage to Customs and Border Protection (CBP) Officers, GS-1895, as well as to employees who transfer directly to administrative and supervisory positions. Further, individuals who were on the rolls of US Customs and Border Protection (CBP) as of the December 26, 2007, date of enactment may elect to be excluded from the new provisions.

Since just prior to enactment we have been working with your staff to become informed concerning the new statute's implications and to develop a plan to carry out the election of coverage it requires. We believe that we have identified the steps that must be taken to implement the statute and have begun making preparations to inform employees of their election opportunity, as well as identifying necessary payroll system adjustments to document their elections. The following is a summary overview and status of the major actions in our plan:

- Establish a project team to carry out the tasks necessary for implementation – this action has been completed;
- Receive from and discuss with OPM policy staff a preliminary staff analysis of the new legislation – this action has been completed;
- Draft initial notice to employees providing a brief overview of the law and the categories of employees who are impacted – draft undergoing internal review;
- Draft comprehensive informational item to employees, including an election form – in progress;
- Draft requirements for reviewing files of employees who are potentially subject to secondary coverage – document drafted and undergoing review;
- Hold internal meeting(s) between Departmental and CBP implementation team to identify payroll system requirements – action completed;
- Arrange for temporary staff to supplement CBP retirement counseling capability – on-going;
- Explore the feasibility of modifications to the retirement estimating tool - pending;

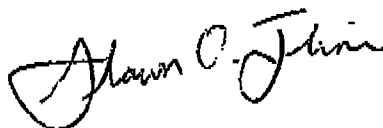
- Distribute initial notice to employees – action planned upon final internal edits and circulation to OPM staff for review and clearance;
- Discuss system and documentation requirements with OPM operational and personnel data staff – action pending assignment of OPM staff;
- Provide payroll system and retirement processing documentation requirements to National Finance Center NFC – action pending direction from OPM;;
- Train retirement counselors and other staff in the new provisions – pending;
- Distribute comprehensive informational package and election form to affected employees – pending actions above
- Provide retirement counseling and estimates to employees, as requested – pending actions above;
- Receive and track employee responses – election forms will require receipt acknowledgment – pending actions above;
- Process elections – processing and documentation dependent upon system requirements; and
- Conduct follow up actions as needed to resolve payroll issues and employee questions.

We plan to work closely with your staff concerning the content of informational items for employee consumption. As indicated in the listing of actions above, we also will require additional support from OPM to establish payroll system requirements. As the implementation of such requirements in the NFC system could entail several months of lead time, we are hopeful that staff will be assigned to assist us soon. Anything that you can do to expedite the involvement of OPM operational staff will be appreciated.

In closing, I would like to thank you and your staff for your assistance to date. In particular, Mr. Ted Newland has been extremely responsive and supportive in providing information and advice concerning the new statute.

Should you have questions concerning our implementation plans please feel free to contact me on 202-357-8407, or by email at shawn.flinn@dhs.gov. Your staff may call my point of contact in this matter, Linda Oakey on 202-357-8217, or at linda.oakey@dhs.gov.

Sincerely,



Shawn O. Flinn
Director
Center for Talent Management and Accountability



UNITED STATES OFFICE OF PERSONNEL MANAGEMENT
Washington, DC 20415

Strategic Human
Resources Policy
Division

JAN 23 2008

Shawn O. Flinn
Director
Center for Talent Management and Accountability
Office of the Chief Human Capital Officer
U.S. Department of Homeland Security
Washington, D.C. 20528

Dear Mr. Flinn:

Thank you for your letter of January 22, 2008, informing us of your activities related to the implementation of section 535 of Division E, (the Department of Homeland Security Appropriations Act of 2008) Public Law 110-161, and seeking our approval for your proposed procedures for advising employees of their right of election.

In that regard, the statute includes the following requirement:

(B) NOTICE REQUIREMENT.—Not later than 30 days after the date of the enactment of this Act, the Director of the Office of Personnel Management shall take measures reasonably designed to ensure that incumbents are notified as to their election rights under this paragraph, and the effect of making or not making a timely election.

We have reviewed your letter, and appreciate the thought that has gone into not only the notice requirement, but into the overall planning as well. Given that a meaningful notice requires dissemination of information that will not be available until a number of the other items reflected in the task list have been accomplished; we believe that the proposal for fulfilling the notice requirement is logical, feasible, effective and as detailed as is possible at this time. Accordingly, we believe that this plan more than meets the requirement of being “reasonably designed to ensure that incumbents are notified as to their election rights under this paragraph, and the effect of making or not making a timely election.”

The dedicated efforts of many individuals in your Department and OPM have already begun, and will continue to be necessary to effect this important legislation. However, I would like to specifically express our appreciation for the important seminal work of Linda Oakey of your staff, who has worked closely with OPM staff to establish a foundation for further efforts.

We look forward to continuing our joint efforts to insure a smooth and efficient implementation.

Sincerely,


fr: Nancy H. Kichak
Associate Director
Strategic Human Resources Policy Division