Military Deposits Under USERRA

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Benefits & Work Life Program Manager
Agenda

Define Major Provisions of USERRA & Affects on Employees
Review Creditable Military Service
Discuss USERRA Deposit Rules, Requirements & Deposit Costs
Explain Interest Accrual Dates
Counseling Employees
Forms
Questions & Answers
Absent-US Definition

ABSENT-Uniformed Service

- When an employee is absent to perform duty with the uniformed services and has reemployment rights under USERRA – 38 U.S.C. Chapter 43
- NOAC – 473; Authority Code Q3K or Q3K and QRD
  - Service is not qualifying for reservist differential provision in 5 U.S.C. 5538; 5 CFR Part 353
  - Service is qualifying for reservist differential provision in 5 U.S.C. 5538 (i.e., service is qualifying regardless of whether differential is actually payable)
USERRA Purpose

- Protects reemployment rights of non-career and career Veterans, Reservists and National Guard Members

- Prohibits an agency from discrimination against or taking reprisal against an applicant or employee because of his application, membership, or service in the uniformed services

- Prohibits employment discrimination on basis of past, present or future military obligations
Public Law (P.L.) 103-353

- Signed by President Clinton October 13, 1994
- Completely rewrote Chapter 43 of title 38, U.S.C.
- Made many changes affecting provisions, rights, and effects on benefits / service credit deposits lesser of the two
- Made certain National Guard service creditable for the first time and allowed service credit with military deposit
- Includes interrupted service followed by reemployment in civilian service on or after August 1, 1990 (RTD)
Prior To December 12, 1994

- Employee’s Agency Status:
  - Separation-US or LWOP
- Creditable Service **Under 6 Month Rule**
- No Service Credit Provided for National Guard
  - (Even if Employee Returned to Duty)
- No Military Service Deposit Allowed
Basic USERRA Protections

- USERRA Protections Apply To All Employees:
  - **In a permanent**, temporary, part-time, probationary, or seasonal employment position
  - On a time-limited appointment with entitlement to complete any unexpired portion of his/her appointment upon reemployment.

**NOTE:** If military service extends beyond the appointment not-to-exceed date, the employee is not eligible for reemployment.
Basic USERRA Protections

- Prohibits Discrimination Against:
  - Initial Hiring
  - Promotions
  - Retention In Employment
  - Any Employment Advantage
  - Reduction In Force (RIF) while on active duty
- Ensures Benefits During Active Duty Service
- Provides Prompt Restoration To Duty & Benefits Reinstatement
  - Up To 5 Year Cumulative Total For Reemployment Rights
Basic USERRA Protections

- Provides that a person alleging a violation may file a complaint with:
  - The Department of Labor Veterans’ Employment and Training Service (DOL/VETS)
  - Merit Systems Protection Board (MSPB)

- Assistance is also available from the Employer Support of the Guard and Reserve (ESGR)
Creditable Military Service

All Armed Forces Service Voluntary or Involuntary

- Army
- Navy
- Air Force
- Marine Corps
- Coast Guard
- Regular Corps or Reserve Corps of the Public Health Service (service was performed after June 30, 1960)
- Commissioned Officer of NOAA (service was performed after June 30, 1961)

Other Service Creditable As Military Service

- U.S. Naval Academy Midshipman
- U.S. Military Academy Cadet
- U.S. Air Force Academy Cadet
- U.S. Coast Guard Academy Cadet
- Naval Reserve Officers Training Corps (NROTC)
- Army Reserve Officers Training Corps (AROTC)
- National Guard Service
Honorable Discharge Required

Creditable
- Under Honorable Conditions:
- Separation Because of Hardship
- Transfer to Retired List Because of Age or Disability
- Transfer to Fleet Reserve
- Furlough to Reserve Forces
- General Discharge (Under Honorable Conditions)
- Death In Action

Not Creditable
- Dishonorable Discharge
- Under Less Than Honorable Conditions or Other Than Honorable
- Undesirable
- Bad conduct
- Unfitness
- Desertion
- AWOL (Lost Time)
- Inactive Duty Training (IDT)
Title 32 Non-Creditable Service

- National Guard Service that precedes Federal Civilian Service

- Service that did not meet all requirements under P.L. 103-353 and
  - was not followed by reemployment within the 5-year limit that may have occurred on or after August 1, 1990
Retired Military Service

Military service for which employees are in receipt of Military Retired Pay is **NOT** creditable unless:

- Receiving Combat Incurred Disability Pay
- Receiving Reserve Retired Pay Under Chapter 67 (Sections 12731-12739, Title 10)
- Service **not** used in computation of military retired pay
- Employee submits a waiver of military retired pay at the time of civilian service retirement

*Note: Employee can receive credit on the civilian side and continue to receive military retired pay until retirement from civilian service*
Military Deposits

Individuals who performed military service on or before December 31, 1956, receive full credit for this service under CSRS and FERS. No deposit is required; it’s free.
Military Service Deposits

- Two calculations are required **ONLY** when employee exercises their restoration rights

- Employee pays **lesser** of:
  - CSRS: 7% of the military base pay received or 7% of what the civilian earnings would have been*
  - CSRS Offset: 7% of the military base pay received or .8% of what the civilian earnings would have been
  - FERS: 3% of the military base pay received or .8% of what the civilian earnings would have been*
  - FERS-RAE: 3% or 3.1% & FERS-FRAE: 3% or 4.4%

*Note: Percentages may vary depending on the dates of service
  * Interest Rate Exception: 1999 & 2000
  * Interest Rate Exception: 1999 & 2000

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  * Interest Rate Exception: 1999 & 2000
  * Interest Rate Exception: 1999 & 2000

Plus Interest
Impact on Retirement

If Separation-US or Absent-US under Title 10 & Title 32 with proper restoration; then creditable service applies if:

**CSRS hired prior to 10/01/1982**
- Time is creditable without deposit required (subject to Catch-62)

**CSRS hired on/after 10/01/1982 or FERS**
- Time only creditable if military deposit paid (FERS always pay to play)
CSRS – “Catch-62”

- First Hired Under CSRS Prior to 10-01-1982
- Eligible for Social Security at age 62
- Military Deposit Not Paid
- Results = Recalculation of Annuity Minus Military Service (occurs at age 62)

Note: Reduction will occur at age 62 whether the retiree applies for Social Security benefits or not.
CSRS – Post-1956 Military Service Credit

First Hired Under CSRS Prior To October 01, 1982

Eligible For Social Security Age 62

Pay Post-1956 Military Service Deposit For Credit After Age 62

First Hired Under CSRS Prior To October 01, 1982

Not Eligible For Social Security

No Post-1956 Payment Required

First Hired Under CSRS After October 01, 1982

Must Pay Post-1956 To Receive Credit at Time of Retirement
CSRS – Military Service Example

**Name:** Amy Zinger  
**Retirement system:** CSRS (25 years)  
**Military Service:** U.S. Navy 3yrs 0mos 0days  
**High-3 average salary:** $30,000  
**Deposit amount:** $2,500  
**Social Security credits:** 44
Total Creditable Service:

25 Years of Service (CSRS) + 3 years U.S. Navy = 28 years

52% of $30,000 (High 3) = $15,600 per year or $1,300 per month

Amy’s annuity will continue until age 62.
If Amy’s military deposit is **NOT** paid, OPM will recalculate her annuity subtracting the 3 years of her military service.
FERS – Post-56 Military Service Credit

FERS employees with Military Service on or after January 1, 1957

MUST PAY
Post-1956 Military Service to receive credit at time of Retirement
**FERS – Military Service Example**

- **Name:** Louie Armstrong  
- **Retirement system:** FERS (11 years)  
- **Military Service:** U.S. Air Force 5yrs 0mos 0days  
- **High-3 average salary:** $30,000  
- **Deposit amount:** $3,000
FERS – Military Service Example

Total Creditable Service with deposit:

11 Years of Service (FERS)  
+ 5 years U.S. Navy  
= 16 years

16% of $30,000 (High 3) = $4,800 per year or  
$400 per month

With deposit Louie’s annuity increased by $1,500  
annually
FERS – Military Service Example

Total Creditable Service:

11 Years of Service (FERS)
= 11 years

11% of $30,000 (High 3) = $3,300 per year or $275 per month

Under FERS rules if Louie’s military deposit is NOT paid he will only receive credit for his FERS civilian service.
Interest Accrual on Military Service Deposits

- 2-year interest free period to make a deposit for periods of military service

- Interest free period begins when the employee returns to duty and ends 3 years from that date known as the Interest Accrual Date (IAD)

- Interest is added to any remaining unpaid balance on every IAD anniversary date until the deposit is paid in full

- Interest rates are computed based on a calendar year; therefore

- Two interest rates may apply since interest accrual periods usually do not coincide
Composite Interest Rate

Calendar Year Interest Rate X F1 + Calendar Year Interest Rate X F2 = Composite Interest Rate Formula

Composite Rate Computation:

CY 1985 Rate x F1 + CY 1986 Rate x F2

13% x .2111 = 2.7443% + 11.125% x .7889 = 8.7765%

Composite Rate = 11.5208%
Interest Accrual Dates Example

Employee: Active duty service (08/17/2009 - 08/17/2012)
Returns to covered position on 08/19/2012

IAD: 08/19/2015

HR Specialist: Employee’s IAD is established as 08/19/2015 because it is the date the employee returned to his/her covered position. On the IAD of 08/19/2015 one year of interest will be added to the employee’s unpaid balance.
Counsel Employees on:

- Deposit Options
- Provide Two Calculations
- Review Best Options & Deposit Requirements
Counseling Employees

- Upon Notification, Request Supporting Documentation (if possible)
- Use Uniformed Service Checklist
- Review Restoration Rights
  - Time Limits
  - Notification Process
Refunds of Military Deposit

Military Deposits are not refundable unless:

- Deposit was made in error (service is not creditable)
- Waiver of Military Retired Pay not submitted
- Deposit is not made/incomplete
Military Service Deposit Process

- Employee obtains record of military estimated earnings by completing and submitting the Form RI 20-97

- Employee applies by completing a SF 2803A OR SF 3108A

- Employee makes payments to agency (DFAS Payroll)

- Deposit must be paid in full at agency before retirement
Required Documents

**ALL** Documents Must Include

- Rank
- Type of Service (Title 10)
- Character of Discharge
- Lost Time
- Beginning & End Dates of Service
Documents Accepted For Computing Earnings

- DD Form 214 (Most Common)
- Letter from the Military Academy
- Academic Record of Classes
- Any Official Letter on Agency/Unit Letterhead
- NA Form 13038 Certification of Military
- AF Form 1613, Statement of Service
- NA Form 13041
- NA Form 13072
- NA Form 13165
**RI 20-97 Estimated Earnings**

![Image of RI 20-97 Estimated Earnings form]

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**Estimated Earnings During Military Service**

In the United States Office of Personnel Management, the Retirement Operations Center, Bayonne, Pennsylvania 19017, provides a service for estimating earnings for military service. The process involves completing a form available on the website www.dfas.mil/civilianemployees/customerservice. The form includes fields for personal information, service dates, and earnings, among others. The uniformed services must provide the estimated basic pay for military service they performed after December 31, 1960. This service is essential for retirement planning.

The form requires the submission of personal details such as names, dates of birth, military service numbers, and signatures. Additionally, it calculates estimated earnings for any period of service prior to January 1, 1957, and includes a section for foreign service. The estimated earnings are critical for personnel planning and retirement benefits.

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**Table: Estimated Earnings During Military Service**

<table>
<thead>
<tr>
<th>Field Description</th>
<th>Example</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name (Last, first, middle)</td>
<td>John Doe</td>
</tr>
<tr>
<td>Social Security Number</td>
<td>123-45-6789</td>
</tr>
<tr>
<td>Date of birth</td>
<td>01/01/1980</td>
</tr>
<tr>
<td>Branch of service</td>
<td>Army</td>
</tr>
<tr>
<td>Active military service after December 31, 1960 (dates indicated below must be based on DD 214 or equivalent certification)</td>
<td>From: 01/01/1980, To: 12/31/1985</td>
</tr>
<tr>
<td>Estimated Earnings (Basic Pay)</td>
<td>From: 01/01/1980, To: 12/31/1985, Estimated earnings: $50,000</td>
</tr>
<tr>
<td>Date of Basic Pay</td>
<td>06/01/1982</td>
</tr>
<tr>
<td>Type of Discharge</td>
<td>Honorable</td>
</tr>
</tbody>
</table>

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For more information, visit the Defence Finance and Accounting Service website at www.dfas.mil/civilianemployees/customerservice.
# Standard Form 2803

**Application to Make Deposit or Redeposit**

**Civil Service Retirement System**

To avoid a delay in processing your claim:
1. Read the attached information carefully.
2. Type or print as ad.
3. Complete Part A as full. If you are currently a Federal employee, have your employing agency complete Part B.

### Part A. To be Completed by the Applicant

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Name (Last, first, middle)</td>
</tr>
<tr>
<td>2.</td>
<td>List other names you have used</td>
</tr>
<tr>
<td>3.</td>
<td>Date of Birth (mm/dd/yyyy)</td>
</tr>
<tr>
<td>4.</td>
<td>Address (Number and street)</td>
</tr>
<tr>
<td>5.</td>
<td>Department or agency in which presently or last employed, including bureau, branch, or division</td>
</tr>
<tr>
<td>6.</td>
<td>Social Security Number</td>
</tr>
<tr>
<td>7.</td>
<td>Location of employment (city and state)</td>
</tr>
<tr>
<td>8.</td>
<td>Title of position</td>
</tr>
</tbody>
</table>

9. Have you previously filed any application under the Civil Service Retirement System (CSRS)?

   - [ ] Yes, complete items 9a and 9b
   - [ ] No

9a. Type of application

   - [ ] Service credit payment
   - [ ] Voluntary Contributions Account
   - [ ] Refund
   - [ ] Retirement

9b. Claim number(s) (if available)

10. I am applying to make a service credit payment for:

   - [ ] Civilian Service (Complete item 10)
   - [ ] Military Service (Go to item 11)

List below in chronological order all periods of Federal civilian service. Be sure your service is listed so that the Office of Personnel Management (OPM) can bill you for the correct amount.

<table>
<thead>
<tr>
<th>Department or Agency (including bureau, branch or division where employed)</th>
<th>Location of Employment (City and state)</th>
<th>Title of Position</th>
<th>Periods of Service</th>
<th>Check whether deductions were not withheld, withheld and refunded, or withheld and remain to your credit</th>
<th>Date of Separation (mm/dd/yyyy)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>Beginning Date (mm/dd/yyyy)</td>
<td>Ending Date (mm/dd/yyyy)</td>
<td>Net Withheld</td>
</tr>
</tbody>
</table>

11. Are deductions for the Civil Service Retirement System now being withheld from your salary?

   - [ ] Yes (Go to item 13)
   - [ ] No (Go to item 12)

12. Give the date of separation from your last position under the Civil Service Retirement System.

13. Signature of applicant

14. Email address

15. Telephone number (including area code) where you can be reached during the day

16. Date (mm/dd/yyyy)

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**U.S. Office of Personnel Management**

**CSRS Handbook**

**Personal and Payroll Offices**

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**Print**  **Save**  **Clear**
**Standard Form 2803A**

**Application To Pay Military Deposit**

*For Military Service Performed After December 31, 1956*

You must be currently employed and covered under CSRS to make the military deposit. You must complete the deposit in full before the separation on which your retirement benefit will be based.

<table>
<thead>
<tr>
<th>Employer’s Name</th>
<th>Date of Birth (mm/dd/yyyy)</th>
<th>Social Security Number</th>
</tr>
</thead>
</table>

1. **Information About Employee’s Military Service**

<table>
<thead>
<tr>
<th>Branch of Military</th>
<th>Period of Service</th>
<th>Agency Use Only (To Be Completed By Agency HR Office)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Due: Alternative Deposit Calculation Under: VETERANS APPLICABLE?</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(Check appropriate box)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Yes</td>
</tr>
</tbody>
</table>

2. **Employee’s Acknowledgment of Understanding of Military Service Credit and Deposit Rules**

I am currently employed in a position whose deductions for the Civil Service Retirement System (CSRS) are being deducted from my salary, and I wish to pay the deposit necessary to obtain credit for my military service after 1956. I understand that I must pay the entire deposit to the employing agency before separation for retirement. I further understand that the military deposit cannot be deceased paid at retirement if I am eligible for and elect an alternative annuity. If I do elect the alternative annuity upon retirement, any completed military deposits made to the Fund will be refunded to me along with any other retirement contributions or payment I made to the Fund. Once I complete the deposit in full, I understand that it can only be refunded to me if I become eligible for a refund of my retirement contributions or retire without waiving my military retired pay (if any).

I understand that for any given full period of military service that I have performed, if I do not complete the deposit for that full period of military service, any payment I make that were applied to that full period of military service will not be refunded to me unless I retire or when I become eligible for a refund of my retirement contributions. I also understand that I may not apply to any given full period of military service that I have performed for which I have not completed the military deposit:

- For each period of military service performed after 1956:
  - if the first time I worked in a position where CSRS deductions were withheld from my salary was on or after October 1, 1982, the post-1956 military service will not be credited unless it ceases to be credited under the CSRS annuity if I do not complete the deposit before I separate for retirement.
  - If the first time I worked in a position where CSRS deductions were withheld from my salary was before October 1, 1982, the post-1956 military service will not be credited unless I am eligible for Social Security benefits at that time.

Finally, I understand that payment of this deposit will not make my military service creditable if it is otherwise not creditable under CSRS. I realize that the Office of Personnel Management (OPM) is solely responsible for adjudicating and administering civil service retirement benefits. I understand that OPM will determine if my military service can be credited in any CSRS retirement if I apply for any retirement benefits.

<table>
<thead>
<tr>
<th>Employee’s Signature</th>
<th>Email Address</th>
<th>Telephone number where you can be reached during the day</th>
<th>Date (mm/dd/yyyy)</th>
</tr>
</thead>
</table>

**PRINT** **SAVE** **CLEAR**
Standard Form 3108A

Application To Pay Military Deposit
For Military Service Performed After December 31, 1956

You must be currently employed and covered under FERS to make the military deposit. You must complete the deposit in full before the separation on which your retirement benefit will be based.

Employee's Name ___________________________ Date of Birth (mm/dd/yyyy) ___________________________ Social Security Number ___________________________

1. Information About Employee’s Military Service

<table>
<thead>
<tr>
<th>To Be Completed By Employee</th>
<th>Agency Use Only (To Be Completed By Agency HR Office)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Branch of Military</td>
<td>Rules That Apply to the Service</td>
</tr>
<tr>
<td>Period of Service</td>
<td>(Check appropriate box)</td>
</tr>
<tr>
<td>Beginning Date (mm/dd/yyyy)</td>
<td>Ending Date (mm/dd/yyyy)</td>
</tr>
<tr>
<td>Branch of Military</td>
<td>Period of Service</td>
</tr>
</tbody>
</table>

Certification: The information entered above is based on official records of that agency and is correct.

Agency Official Signature ___________________________ Date (mm/dd/yyyy) ___________________________

2. Employee’s Acknowledgment of Understanding of Military Service Credit and Deposit Rules

I am currently employed in a position where deductions for the Federal Employees Retirement System (FERS) are being deducted from my salary, and I wish to pay the deposit necessary to obtain credit for my military service after 1956. I understand that I must pay the entire deposit to my employing agency before separation for retirement. I further understand that the military deposit cannot be deemed paid at retirement if I am eligible for and elect an alternative annuity. If I do elect the alternative annuity upon retirement, any completed military deposits made to the Fund will be refunded to me along with any other retirement contributions or payments I made to the Fund. Once I complete the deposit in full, I understand that it can only be refunded to me if I become eligible for a refund of my retirement contributions or retire without having my military retired pay (if any).

I understand that for any given full period of military service that I have performed, if I do not complete the deposit for that full period of military service, any payments I made that were applied to that full period of military service will be refunded to me when I retire or when I become eligible for a refund of my retirement contributions. I also understand each of the following service credit rules and how they apply to any given full period of military service that I have performed for which I have not completed the military deposit:

- For each period of military service performed after 1956 that is subject to FERS rules, the post-1956 military service will not be used to compute or establish title to a FERS annuity if I do not complete the deposit before I separate for retirement.
- For each period of military service performed after 1956 that is subject to Civil Service Retirement System (CSRS) rules in a CSRS component of my FERS annuity.
- If the first time I worked in a position where CSRS deductions were withheld from my salary was on or after October 1, 1982, the post-1956 military service will not be used to compute or establish title to a FERS annuity if I do not complete the deposit before I separate for retirement.
- If the first time I worked in a position where CSRS deductions were withheld from my salary was before October 1, 1982, the post-1956 military service will not be used to compute my annuity at age 62 or when I retire, if I retire after age 62. I may be eligible for Social Security benefits at that time.

Finally, understand that payment of this deposit will not make my military service creditable if is otherwise not creditable under FERS or CSRS. I realize that the Office of Personnel Management (OPM) is solely responsible for adjudicating and administrating civil service retirement benefits. I understand that OPM will determine if my military service can be credited in my FERS retirement when I apply for my retirement benefits.

Employee’s Signature ___________________________ Telephone number where you can be reached during the day ___________________________

Email address ___________________________ Date (mm/dd/yyyy) ___________________________
Summary

- Defined Major Provisions of USERRA & Affects on Employees
- Reviewed Creditable Military Service
- Discussed USERRA Deposit Rules, Requirements & Deposit Costs
- Explained Interest Accrual Dates
- Counseling Employees
- Forms
- Questions & Answers
Military Deposits Under USERRA

Questions?
References

- Title 38 U.S.C, 4301 thru 4335
- Title 32 U.S.C.
- Title 10 U.S.C.
- CSRS and FERS Handbook; Chapters 22, 23
- Benefit Administration Letters (BALs) 95-101
- Public Law (P.L.) 103-353
- Title 5 Code of Federal Regulations (C.F.R.)
- GPPA Chapter 15, Placement in Nonpay or Nonduty Status
- Defense Finance and Accounting Service - www.dfas.mil