



## ***Benefits Administration Letter***

Number 12 - 104

Date: October 3, 2012

### **Subject: Federal Employees Retirement System-Revised Annuity Employees (RAE)**

**Purpose:** The purpose of this Benefits Administration Letter (BAL) is to provide guidance concerning employees and Members of Congress who will be covered under the Federal Employees Retirement System (FERS) as Revised Annuity Employees (RAE), FERS-RAE. This guidance only applies to automatic FERS coverage determinations. Employees who are subject to CSRS, CSRS-Offset, or FICA-only coverage and who have an opportunity to elect to transfer to FERS will be subject to FERS, not FERS-RAE, if they elect to transfer to FERS.

**Background:** Public Law 112-96, Section 5001, the "Middle Class Tax Relief and Job Creation Act of 2012," makes two significant changes to the Federal Employees' Retirement System (FERS). First beginning in 2013, new employees (as designated in the statute) will have to pay significantly higher employee contributions, an increase of 2.3 percent of salary. Second, new Members of Congress and Congressional employees, in addition to paying higher retirement contributions, will accrue retirement benefits at the same rate as regular employees.

### **Coverage Determination:**

FERS-RAE coverage will generally apply to any individual who receives an appointment not excluded from FERS coverage on or after January 1, 2013, and who would normally be placed in FERS. There are three exceptions to this general rule, however, and the date December 31, 2012, is a key date for each of those exceptions. An individual will be excluded from FERS-RAE coverage if any of these exceptions apply:

1. the individual on December 31, 2012, was covered under FERS;

OR

2. the individual on December 31, 2012, was performing civilian service which is creditable or potentially creditable service under FERS (for example the individual may have been covered under another retirement system from which service credit may be transferred to FERS, such as CSRS, CSRS-Offset, Foreign Service, Federal Reserve, or CIARDS)

OR

3. the individual on December 31, 2012, was not covered under FERS and was not performing civilian service which is creditable or potentially creditable service under FERS, **but** as of December 31, 2012 had performed at least **five years** of civilian service creditable or potentially creditable under FERS, including service subject to CSRS or CSRS-Offset.

### ***Potentially Creditable Service***

Certain categories of service become fully creditable only if the employee takes certain actions, such as applying to pay for the service by a deadline established in law or waiving rights to benefits under another retirement system for Federal employees. For example, service covered by the Foreign Service Pension System is potentially (but not fully) creditable until an employee has waived his or her rights to benefits under that system and made the necessary deposit to OPM. In making coverage determinations count all creditable civilian service that is potentially creditable on the effective date of the personnel action requiring the coverage determination. The resulting coverage decision remains valid even though the employee may never ever take all the actions needed for the service to become fully creditable.

### ***Break in Service of Three Days or Less that Spans December 31, 2012***

If an individual leaves a FERS covered position immediately before December 31, 2012, and returns to a FERS covered position after a break of three days or less, the employee will continue to be covered under FERS even if the employee returns after December 31, 2012. A break in FERS coverage of three days or less is not considered to be a separation from service and the individual is considered to be covered under FERS on December 31, 2012.

### ***Receipt of Compensation Benefits While Separated from Service on December 31, 2012***

When an individual returns to Federal service following a separation during which he or she was receiving compensation benefits under the Federal Employees' Compensation

Act (FECA) from the Office of Workers' Compensation Programs, the individual is deemed, for service credit purposes, to have been on a leave of absence without pay for the period during which he or she was receiving the compensation benefits and that period is creditable service under FERS. If an individual is separated from Federal service on December 31, 2012, but is never-the-less entitled to service credit for that day because he or she was receiving FECA benefits, the individual is considered to have been performing civilian service creditable under FERS on December 31, 2012, and is excluded from FERS-RAE coverage.

***Performing Active Duty Military Service on December 31, 2012, Following a Separation from Civilian Service***

If a FERS covered employee separates from Federal service before December 31, 2012 to enter active duty military service, and returns to Federal service after December 31, 2012, after exercising his or her reemployment rights under 38 U.S.C. § 4312, the employee is not considered to be separated from Federal service for purposes of determining FERS-RAE coverage. Under specific provision of the Uniformed Services Employment and Reemployment Rights Act (USERRA), individuals reemployed with the Government under chapter 43 of title 38 must be treated as not having a break in service.

***FERS Employees in a Leave Without Pay Status On December 31, 2012***

FERS employees who are not separated from Federal service but who on December 31, 2012, are in a leave without pay status are excluded from FERS-RAE coverage, even if:

- the employee has been on leave without pay for more than six months in 2012, and does not receive service credit for December 31, 2012, or
- the employee has been on leave without pay while performing active duty military service and does not return to the Federal civilian service by exercising his or her reemployment rights.

***Examples***

1. Employee receives a FERS covered appointment effective January 14, 2013. This is a first hire – employee had no prior civilian service with the Federal Government.

***Employee is subject to FERS-RAE coverage.***

2. Employee receives a FERS covered appointment effective January 2, 2013. Employee had one previous period of civilian service with the Federal Government covered under FERS from September 14, 2008, to December 29, 2012.

***Employee is subject to FERS coverage.***

*Although the employee was not employed by the Government on December 31, 2012, the break between the end of the employee's FERS appointment (December 29, 2012), and the beginning of the next appointment (January 2, 2013) is only three days. The break is not considered to be a separation from service and the employee is considered to have been covered under FERS on December 31, 2012.*

3. Employee receives a FERS covered appointment effective January 14, 2013. Employee had one previous period of civilian service with the Federal Government covered under FERS from September 14, 2008, to December 29, 2012.

***Employee is subject to FERS-RAE coverage.***

*The employee was not employed by the Government on December 31, 2012, and the employee as of December 31, 2012, had performed less than five years of civilian service creditable or potentially creditable under FERS. In this case the break between the end of the employee's FERS appointment (December 29, 2012), and the beginning of the next appointment (January 14, 2013) is more than three days so the break is not creditable and the employee is not excluded from FERS-RAE.*

4. Employee receives a FERS covered appointment effective April 29, 2014. Employee had one previous period of civilian service with the Federal Government from September 14, 2008, to January 5, 2013. The employee was covered under FERS throughout that previous period of service.

***Employee is subject to FERS coverage*** because the employee was employed in a civilian position subject to FERS on December 31, 2012. (The fact that the employee had not yet completed 5 years of service as of December 31, 2012, is not a relevant consideration in this scenario because the employee was covered under FERS on December 31, 2012.)

5. Employee receives a FERS covered appointment effective January 6, 2013. Employee had previous civilian service that was covered under the Foreign Service Pension System (FSPS) from February 12, 2012, through January 5, 2013.

***Employee is subject to FERS coverage*** because the employee was working in a position on December 31, 2012, that is potentially creditable under FERS.

6. Employee receives a FERS covered appointment effective May 5, 2013. Employee previously had civilian service that was covered under FERS from June 3, 2001, through June 21, 2008.

***Employee is subject to FERS coverage on May 5, 2013.***

*Although the employee was not employed with the Federal Government on December 31, 2012, the employee had performed at least 5 years of creditable civilian service as of December 31, 2012.*

7. Employee receives a FERS covered appointment effective May 5, 2013. Employee previously had civilian service that was covered under the Foreign Service Pension System (FSPS) from June 3, 2001, through June 21, 2008.

***Employee is subject to FERS coverage on May 5, 2013.***

*Although the employee was not employed with the Federal Government on December 31, 2012, the employee had performed at least 5 years of potentially creditable civilian service as of December 31, 2012.*

8. Employee receives a FERS covered appointment effective June 16, 2013. Employee previously had performed Federal service under FERS from December 10, 2008, through June 22, 2011, when the employee's agency took action to separate the employee from service because she was receiving FECA compensation benefits from the Office of Workers' Compensation Programs. The employee continued receiving compensation benefits after the separation from service until she returned to Federal service on June 16, 2013.

***Employee is subject to FERS coverage.***

*Although employee was separated from Federal service on December 31, 2012, she is entitled to service credit for the period of separation during which she received the FECA benefits and, therefore, is considered to be performing civilian service creditable under FERS on December 31, 2012.*

9. Employee receives a FERS covered appointment effective June 16, 2013. Employee previously had performed Federal service under FERS from May 11, 2009, through June 22, 2011, when the employee separated from Federal service to enter active duty in the military. The individual performed active duty service with the military from June 23, 2011 through June 8, 2013, when he received an honorable discharge. He was reemployed by his former agency effective June 16, 2013, after exercising his reemployment rights under chapter 43 of title 38.

***Employee is subject to FERS coverage.***

*Although the employee was not a civilian employee of the Federal Government on December 31, 2012, he returned to Federal service after exercising his*

*reemployment rights under chapter 43 of title 38 and therefore, for purposes of determining FERS-RAE coverage, the employee must be treated as though he were not separated from his FERS civilian employment on December 31, 2012.*

10. Employee received a FERS covered appointment effective June 16, 2013. Employee previously had performed Federal service under CSRS from June 13, 1977 through September 21, 1981.

***Employee is subject to FERS-RAE Coverage.***

*Employee was not an employee of the Federal government on 01/01/2013 and did not have 5 years of prior CSRS covered creditable service.*

### **Members and Congressional Employees:**

The Members and Congressional employees who do not qualify for the exclusion from being a FERS-RAE employee are subject to a significant change in their future benefits. The first change is they will be subject to employee contributions at the same contribution rate as regular employees. Secondly, their retirement benefits will be computed under the regular employee formula and not the enhanced formula used for FERS Members and Congressional employees.

### **Attachments:**

Attachment 1 provides revisions to the retirement coverage determination tables from Chapter 10 of the CSRS and FERS Handbook for Personnel and Payroll Offices to incorporate FERS-RAE coverage to assist you in determining the correct coverage.

Attachment 2 is the FERS and FERS-RAE contribution tables that provide the percentages for both the employee and agency contributions. Please note that we are currently developing retirement plan codes to account for FERS-RAE coverage and we will provide those codes in future guidance.

IF you have any questions concerning this BAL, you may contact Sharon Appel, Program Analysis Officer at 724-794-2005 extension 3127 or [Sharon.Appel@opm.gov](mailto:Sharon.Appel@opm.gov).

Kenneth J Zawodny Jr  
Associate Director  
Retirement Services

## ATTACHMENT 1

### REVISED RETIREMENT COVERAGE DETERMINATION TABLES FROM CHAPTER 10 OF THE CSRS AND FERS HANDBOOK FOR PERSONNEL AND PAYROLL OFFICES

First Hires (presumes no prior Federal service under FERS or any other retirement system)

STEP	DECISION FACTOR	IF YES ...	IF NO ...
1	Does employee have prior non-Federal service that was covered by or creditable under CSRS? (See section 10A1.3-3B)	Go to Step 2	Go to Step 5
2	Does employee meet 5 year test? (See section 10A1.1-2I)	Go to Step 3	<b>Skip to Step 5</b>
3	Is current appointment excluded from CSRS? (See section 10A1.3-3)	Go to Step 4	Coverage under <b>CSRS Offset</b> with option to elect <b>FERS</b>
4	Is current appointment excluded from FERS? (See section 10A1.3-5)	Coverage under <b>FICA</b> only (unless not applicable)	Covered by <b>FICA</b> with option to elect <b>FERS</b>
5	Is appointment excluded from FERS by law or regulation? (See section 10A1.3-5)	Coverage under <b>FICA</b> only (unless not applicable)	<b>Go to Step 6</b>
6.	Is appointment effective on or after January 1, 2013	Coverage under <b>FERS-RAE</b>	Coverage under <b>FERS</b>

### Transfers/Conversions

STEP	DECISION FACTOR	IF YES ...	IF NO ...
1	Does employee qualify as a senior official? (See section 10A1.3-6C)	See Chapter 101	Go to Step 2
2	Was last employment under another Federal retirement system (for example, <b>FSRS</b> )?	Skip to Step 5	Go to Step 3
3	Was last appointment covered by OASDI ( <b>FICA</b> ) only?	Go to Step 4	Employee retains previous coverage
4	Did employee previously have <b>FERS</b> coverage?	Skip to Step 11	Go to Step 5
5	Was employee first hired after December 31, 1983?	Skip to Step 11	Go to Step 6
6	Is the current appointment temporary NTE 1 year or intermittent and not career or career conditional?	Employee covered under <b>FICA</b> only	Go to Step 7
7	Is the current appointment excluded from <b>CSRS</b> by law or regulation? (See section 10A1.3-3)	Go to Step 8	Skip to Step 9
8	Does employee meet the 5-year test? (See section 10A1.1-2I)	Employee covered under <b>FICA</b> only with option to elect <b>FERS</b>	Skip to Step 16
9	Is current appointment now subject to <b>FICA</b> ? (See section 10A1.3-6)	Go to Step 10	Employee covered under <b>CSRS</b> with option to elect <b>FERS</b> *
10	Does employee meet the 5-year test? (See section 10A1.1-2I)	Employee covered under <b>CSRS Offset</b> with option to elect <b>FERS</b>	Skip to Step 16
11	Is the current appointment temporary NTE 1 year or intermittent and not career or career conditional (that is, excluded from <b>FERS</b> )?	Employee covered under <b>FICA</b> only	Go to Step 12
12	Is current appointment effective on or after January 1, 2013?	Go to Step 13	Employee covered under <b>FERS</b>
13	Was employee covered under <b>FERS</b> on December 31, 2012?	Employee covered under <b>FERS</b>	Go to Step 14
14	Was employee on December 31, 2012, performing civilian service that was creditable or potentially creditable under <b>FERS</b> (e.g. service covered under another retirement system for which credit may be transferred to <b>FERS</b> , such as Foreign Service, Federal Reserve, or <b>CIARDS</b> )?	Employee covered under <b>FERS</b>	Go to Step 15
15	Does employee as of December 31, 2012, have at least 5-years of creditable or potentially creditable service under <b>FERS</b> ?	Employee covered under <b>FERS</b>	Employee covered under <b>FERS-RAE</b>
16	Is current appointment effective on or after January 1, 2013?	Go to Step 17	Employee covered under <b>FERS</b>
17	Was employee on December 31, 2012, performing civilian service that was creditable or potentially creditable under <b>FERS</b> (e.g. service covered under another retirement system for which credit may be transferred to <b>FERS</b> , such as Foreign Service, Federal Reserve, or <b>CIARDS</b> )?	Employee covered under <b>FERS</b>	Go to Step 18
18	Does employee as of December 31, 2012, have at least 5-years of creditable or potentially creditable service under <b>FERS</b> ?	Employee covered under <b>FERS</b>	Employee covered under <b>FERS-RAE</b>



Rehires

STEP	DECISION FACTOR	IF YES ...	IF NO ...
1	Does employee qualify as a senior official? (See section 10A1.3-6C)	See Chapter 101	Go to Step 2
2	Did employee previously have <b>FERS</b> coverage?	Skip to Step 10	Go to Step 3
3	Was employee first hired after December 31, 1983?	Skip to Step 9	Go to Step 4
4	Is current appointment temporary NTE 1 year or intermittent and not career or career-conditional?	Coverage under <b>FICA</b> only	Go to Step 5
5	Is employee's current appointment excluded from <b>CSRS</b> by law or regulation? (See section 10A1.3-3)	Go to Step 6	Skip to Step 7
6	Does employee meet 5-year test? (See section 10A1.1-2I)	<b>FICA</b> only with option to elect <b>FERS</b>	Skip to Step 13
7	Is current appointment now subject to <b>FICA</b> ? (See section 10A1.3-6)	Go to Step 8	Coverage under <b>CSRS</b> with option to elect <b>FERS</b>
8	Does employee meet the 5-year test? (See section 10A1.1-2I)	Coverage under <b>CSRS Offset</b> with option to elect <b>FERS</b>	Skip to Step 13
9	Is the current appointment temporary NTE 1 year or intermittent and not career or career conditional (that is, excluded from <b>FERS</b> )?	Coverage under <b>FICA</b> only	Skip to Step 13
10	Is the current appointment temporary NTE 1 year or intermittent and not career or career conditional (that is, excluded from <b>FERS</b> )?	Coverage under <b>FICA</b> only	Go to Step 11
11	Is current appointment effective on or after January 1, 2013?	Go to Step 12	Coverage under <b>FERS</b>
12	Was employee covered under <b>FERS</b> on December 31, 2012?	Coverage under <b>FERS</b>	Skip to Step 14
13	Is current appointment effective on or after January 1, 2013?	Go to Step 14	Coverage under <b>FERS</b>
14	Was employee on December 31, 2012, performing civilian service that was creditable or potentially creditable under <b>FERS</b> (e.g. service covered under another retirement system for which credit may be transferred to <b>FERS</b> , such as Foreign Service, Federal Reserve, or <b>CIARDS</b> )?	Coverage under <b>FERS</b>	Go to Step 15
15	Does employee as of December 31, 2012, have at least 5-years of creditable or potentially creditable service under <b>FERS</b> ?	Employee covered under <b>FERS</b>	Employee covered under <b>FERS-RAE</b>

## Attachment 2

### Contribution Charts

#### FERS Contribution Rates

Category	FERS Contribution Rates (%)			
	Retirement Plan Code	Normal Cost %	Employee %	Agency %
Regular	K	12.7	.8	11.9
Law Enforcement Officer, Firefighter, Member of Capitol Police, Member of the Supreme Court Police	M	27.6	1.3	26.3
Air Traffic Controller	L	27.3	1.3	26.0
Military Reserve Tech	N	15.7	.8	14.9
Customs and Border Protection Officers	O	27.6	1.3	26.3
Employees under section 303 of the CIA Act of 1964 (when serving abroad)		18.0	.8	17.2
Member of Congress		19.6	1.3	18.3
Congressional Employee		18.0	1.3	16.7

## FERS RAE Contribution Rates

Category	FERS RAE Contribution Rates (%)			
	Retirement Plan Code	Normal Cost %	Employee %	Agency %
Regular	<b>TBD</b>	12.7	3.1	9.6
Law Enforcement Officer, Firefighter, Member of Capitol Police, Member of the Supreme Court Police	<b>TBD</b>	27.6	3.6	24.0
Air Traffic Controller	<b>TBD</b>	27.3	3.6	23.7
Military Reserve Tech	<b>TBD</b>	15.7	3.1	12.6
Customs and Border Protection Officers	<b>TBD</b>	27.6	3.6	24.0
Employees under section 303 of the CIA Act of 1964 (when serving abroad)		18.0	3.1	14.9
Member of Congress		12.7	3.1	9.6
Congressional Employee		12.7	3.1	9.6