



Benefits Administration Letter

Number: 06-102

Date: April 25, 2006

Subject: FERS Credit for Certain Government Service Performed Abroad

This Benefits Administration Letter (BAL) outlines the service credit provisions contained in section 321 of Public Law 107-228, the Foreign Relations Authorization Act, Fiscal Year 2003, relating to certain Government service performed abroad. It also explains how individuals seeking credit under the Federal Employees Retirement System (FERS) for certain Government service performed abroad can obtain that credit.

Definition

Certain Government service performed abroad refers specifically to service that was performed:

- after December 31, 1988, and before May 24, 1998;
- under a temporary appointment pursuant to sections 309 and 311 of the Foreign Service Act of 1980;
- at a United States diplomatic mission, consular post (other than a consular agency), or other Foreign Service post abroad
- by an individual who satisfied all eligibility requirements under regulations of the Department of State (as in effect on September 30, 2002) for a family member limited non-career appointment at the time the service was performed. (If an individual who performed such service was not employed by the Department of State while performing the service, the individual shall be treated as if he or she were employed by the Department of State for purposes of this definition.)

Requirements

Section 321 of Public Law 107-228 provides that certain Government service performed abroad may be creditable under FERS if:

- the service would have been creditable under FERS had it been performed before 1989 and had the appropriate service credit deposit been paid;

<i>Civil Service Retirement System</i>	<i>Federal Employees' Group Life Insurance Program</i>	<i>Federal Employees Health Benefits Program</i>	<i>Federal Employees Retirement System</i>	<i>Long Term Care Insurance Program</i>
--	--	--	--	---

- the service is not otherwise creditable under FERS or any other retirement system for employees of the United States Government (disregarding title II of the Social Security Act);
- the service totals 90 days or more (if an individual is applying to credit multiple periods of such service, this 90 day requirement is met if the combined total of all periods of service equals 90 days or more);
- the individual seeking credit for the service files an application to obtain credit for the service no later than August 29, 2008;
- the individual seeking credit for the service pays a deposit for the service equal to the amount of FERS employee deductions that would have been withheld from the individual's basic pay had the service been subject to FERS deductions, plus interest; and
- the department or agency where the individual performed the service pays a deposit for the service equal to the FERS Government contributions that would have been due had the service been subject to FERS coverage, plus interest.

Applying for Service Credit – Who May Apply

Individuals who performed certain Government service abroad may apply to obtain FERS credit for that service even if they are no longer working for the Federal Government and even if they are already drawing a FERS retirement benefit. If an individual who performed certain Government service abroad has died, anyone who is eligible for a survivor annuity under FERS based on the service of that individual, including anyone who would become eligible for a survivor annuity with the additional service credit, may apply to obtain FERS credit for that service. A survivor applying for FERS credit for certain Government service performed abroad in order to qualify for the FERS Basic Employee Death Benefit, but not a survivor annuity, is not entitled to credit for that service.

(A survivor who becomes eligible for a survivor annuity with the additional credit for certain Government service performed abroad will have to repay any lump sum credit death benefit the Office of Personnel Management (OPM) may have already paid following the death of the individual who performed the service, even if OPM paid that lump sum credit death benefit to someone other than that survivor. OPM will collect the lump sum credit death benefit from the accrued annuity due the survivor. If OPM cannot recover the entire lump sum credit death benefit from the accrued annuity, it will collect the remaining balance in installments from the recurring monthly survivor benefit payments it makes to the survivor.)

Applying for Service Credit – Application Deadline

Individuals seeking FERS credit for certain Government service performed abroad must apply no later than August 29, 2008. They will then have 6 months from the date they are notified of the amount they owe for the service to complete payment for the service. If the 6-month period spans the end of a calendar year, individuals who complete the payment before the end of the calendar year will not owe interest for that calendar year. But if the payment is not completed by the end of a calendar year, additional interest for that calendar year will be added to the deposit amount. For example, if an individual receives a bill for the service in October 2006, he or she

has until April 2007 to pay the bill. If the individual pays the bill before the end of 2006, the individual will not owe interest for calendar year 2006. But if the individual waits until 2007 to pay the bill, the individual will owe additional interest for calendar year 2006.

Applying for Service Credit – Application and Cover Letter

Individuals wishing to obtain FERS credit for certain Government service performed abroad need to complete the regular FERS application for service credit, Standard Form (SF) 3108, *Application to Make Service Credit Payment, Federal Employees' Retirement System*. (That form can be found on OPM's web site by clicking the Federal Forms link on OPM's home page, www.opm.gov.) They also need to prepare a cover letter explaining their particular situation.

In completing the SF 3108, individuals should list in box 10 of Part A only the periods of Government service performed abroad that they seek to credit. The total amount of service listed must equal 90 days or more. If the individual actually performed the service and is still working for the Federal Government, the individual should bring the form to the Human Resources Office (HRO) of the agency where he or she is currently working so the HRO can complete its portion of the form. If the individual seeking credit for the service is not currently employed with the Federal Government, or is the survivor of someone who performed the service, the individual can leave the agency portion of the application (Part B) blank. Survivors applying for the service credit should put their own identifying information (name, address, date of birth, Social Security number, retirement or survivor claim number, other names used) in Part A of the application and provide the identifying information of the individual who actually performed the service in the cover letter.

In addition to completing the SF 3108, individuals seeking FERS credit for certain Government service performed abroad need to prepare a cover letter. The cover letter should identify the applicant as either the person who performed the service or the survivor of a person who performed the service. If the applicant is the individual who performed the service, the cover letter should indicate if the applicant is an employee, a former employee, or an annuitant or compensationner, providing all appropriate claim numbers. If the applicant is a survivor of a person who performed the service, the cover letter should include the identifying information (name, date of birth, social security number) of the individual who performed the service, and should indicate whether or not the survivor is currently receiving a survivor annuity. Attachment 1 of this BAL provides samples of cover letters showing the kinds of information individuals should include in their cover letters.

Applying for Service Credit – Submitting the Application and Cover Letter

As noted above, individuals applying for FERS credit for certain Government service performed abroad who actually performed the service and who are currently employed with the Federal Government should submit their application and cover letter to their employing agency's HRO. The HRO will in turn submit the application and cover letter to the Department of State, at the following address:

Department of State
Office of Retirement HR/RET, SA-1
2401 E Street NW
Room H-620
Washington, DC 20522

Individuals applying for FERS credit for certain Government service performed abroad who actually performed the service and who are not currently working for the Federal Government, and survivors of individuals who performed the service, should submit the application and cover letter directly to the Department of State at the address noted above.

Applying for Service Credit – Current Employing Agency Responsibilities

If an individual applying for FERS credit for certain Government service performed abroad actually performed the service and is currently working for the Federal Government, the agency currently employing the individual must:

- help the individual complete the SF 3108 and prepare the cover letter, as needed;
- complete sections 1, 2, and 3 of Part B of the SF 3108 and the certification section;
- enter the following in section 4 of Part B of the SF 3108 “See copies of SF 50s that are attached to this application.”;
- make copies of all Standard Form 50s, *Notice of Personnel Action*, documenting the service for which the individual is seeking credit, and attach them to the SF 3108;
- prepare a summary of service showing all of the individual’s service that is creditable for retirement purposes; and
- send the application package consisting of the SF 3108, the individual’s cover letter, the SF 50s, and the summary of service to the Department of State at the address noted in the *Applying for Service Credit – Submitting the Application and Cover Letter* section of this BAL above.

Processing the Service Credit Application – General

Applications for FERS credit for certain Government service performed abroad will not be processed by OPM. Because the requirements in section 321 of Public Law 107-228 for crediting that service are unique, requiring interpretations of regulations established by the Department of State and requiring an agency deposit, these applications will first be processed by the Department of State and then by the agency where the service was performed. If the agency where the service was performed no longer exists, the Department of State will perform all functions related to the processing of the application, except that the Department of State will not have to actually submit the agency deposit to OPM.

Processing the Service Credit Application – Department of State Responsibilities

The Department of State will review the documents submitted with the service credit application

package and determine if the service qualifies as certain Government service performed abroad (as defined in the law and at the beginning of this BAL), and determine if all of the requirements for FERS credit are met (except for those requirements pertaining to the actual payment of the deposits). If the application package is submitted by an individual who no longer works for the Government, or by a survivor, the Department of State will have to obtain the Official Personnel Folder of the individual who performed the service so that it can review the appropriate SF 50s documenting the service in question and review the relevant service history (to verify that the service is not otherwise creditable under FERS or another retirement system for Federal employees). A checklist to help the Department of State verify that the service satisfies the conditions for credit is included in Attachment 2 of this BAL.

If the application for FERS credit is submitted by a survivor of the individual who performed the service, the Department of State needs to verify that the applicant is entitled to FERS survivor annuity benefits based on the service of the individual who performed the service abroad. The survivor should provide the Department of State with evidence demonstrating that the survivor is currently receiving a survivor annuity, such as a recent annuity statement or other correspondence from OPM showing the survivor's claim number. If a survivor is not currently eligible to receive a survivor annuity, but would become eligible to receive the survivor annuity after crediting certain Government service performed abroad, the Department of State must verify that the survivor will qualify for a survivor annuity with the additional service credit. The Department of State should review the records in the Official Personnel Folder of the deceased individual, and contact OPM for information about the deceased individual's service, if necessary. The Department of State can obtain information from OPM by faxing a completed version of the document found in Attachment 3 of this BAL to the Refund Service Credit Inquiry line at (724) 794-6633. Do not include a cover letter with the service inquiry request.

(The Department of State can also use the attachment to obtain a listing of an individual's service from records on file with OPM if necessary. OPM's records are limited to Individual Retirement Records (SF 2806s and SF 3100s) and paid redeposit and deposit service accounts. OPM will generally provide the Department of State with a fax reply within two weeks of receiving the request.)

If the Department of State determines that the service qualifies for FERS credit under section 321 of Public Law 107-228, it will forward the application package (including any additional information it may have obtained from the Official Personnel Folder or from OPM), to the agency where the individual who performed the service worked while performing that service. At the same time, the Department of State will send the applicant a letter informing the applicant of its determination and informing the applicant that it is forwarding the application package to the agency where the service was performed for that agency to compute and process the deposits due for the service. The letter should clearly note that while the individual is eligible to pay a deposit for the service, the service is not creditable until the deposit has been paid.

If the Department of State determines that the service does not qualify for FERS credit under section 321 of Public Law 107-228, it must send the applicant a written notice explaining its decision. The notice should also explain the applicant's rights to appeal the decision to the Merit Systems Protection Board. The Department of State must defend its decision if the applicant

appeals.

Processing the Service Credit Application – Responsibilities of the Agency Where the Employee Worked While Performing Certain Government Service Abroad

The agency where the service was performed must process the deposit. That means the agency must:

- compute the amount of the deposit the applicant must pay to obtain credit for the service;
- send the deposit information to the applicant with instructions for paying the deposit;
- compute the deposit amount the agency owes for the service;
- forward the employee and employer deposit payments to OPM with all the required documentation; and
- prepare a memo to be filed in the individual’s Official Personnel Folder certifying that all of the conditions for service credit have been met and that the service is now creditable for FERS retirement purposes.

Computing the Amount of the Deposit the Applicant Must Pay

The applicant must pay a deposit equal to the amount of FERS deductions that would have been withheld from the base pay of the individual who performed the service had the service been subject to FERS deductions, plus interest. The FERS deduction rate for 1989 was 0.94 percent. It was 0.8 percent from 1990 through 1998. Interest is charged at a variable rate established each year by the Secretary of the Treasury. Interest should be computed from the midpoint of each period of service through the end of the calendar year before the applicant pays the deposit. We have included a list of the variable interest rates from 1989 until the present in Attachment 4 of this BAL.

(The midpoint of a period of service is the date that is half way between the date the service began and the date the service ended. For example, if the service began on April 15, 1991, and ended on November 8, 1992, the midpoint would be January 27 1992. To compute the midpoint, add the beginning date to the ending date and divide by 2.

Add Dates		Year	Month	Day	
Beginning Date:		1991	04	15	
Ending Date	+	<u>1992</u>	<u>11</u>	<u>08</u>	
Sum	=	3983	15	23	
Divide Dates by 2					
(Years ÷ 2)	3983 ÷ 2 =	1991	6		
(Months ÷ 2)	15 ÷ 2 =		+ 7	15	
(Days ÷ 2)	23 ÷ 2 =			+ <u>12</u>	(round 11.5 days to 12)
Midpoint		1991	13	27	
		<u>[+ 1]</u>	<u>[- 12]</u>		
		1992	01	27	

You may have to convert time if the total days exceed 30, or if the total months exceed 12. In our example, after dividing 3983 years, 15 months, and 23 days by 2, we ended up with 1991 years, 13 months, and 27 days. Since the total months in this example exceed 12, we need to

convert the months by subtracting 12 months from the month column and adding them to the year column (remembering that 12 months equals 1 year) to get the midpoint – January 27, 1992. In converting time, 30 days equals 1 month and 12 months equals 1 year.)

If the applicant is seeking service credit for more than one period of service, the agency processing the deposit must compute separate deposits for each period and provide the applicant with the total of all the deposits. The agency should also alert the applicant that additional interest may be added to the deposit if the applicant does not pay the deposit before the end of the calendar year when the 6-month period the applicant has to pay the deposit spans the end of a calendar year.

To compute the amount of the deposit without interest, the agency processing the deposit should break down the employee's base pay earnings by calendar year and apply the appropriate FERS employee deduction rate to those earnings. (The agency must break down the base pay earnings by calendar year because it will be required to show how the total deposit without interest breaks down by calendar year. See *Completing Required Documentation* below.)

Computing the Amount of the Deposit the Agency Must Pay

The agency processing the deposit for the applicant must also compute, and pay, a deposit equal to the amount of the FERS Government contributions that would have been due had the service been subject to FERS, plus interest. Interest should be computed from the midpoint of each period of service through the end of the calendar year before the applicant pays the deposit. We have included a list of the FERS Government contribution rates from 1989 until the present in Attachment 4.

If the applicant is seeking service credit for more than one period of service, the agency processing the deposit must compute separate FERS Government contribution deposits for each period and forward to OPM the total of all the deposits. The agency will owe additional interest on its deposit if the applicant does not pay the employee deposit before the end of the calendar year (when the 6-month period the employee has to pay the deposit spans the end of a calendar year).

Notifying the Applicant of the Deposit Amount Due

After computing the amount of the deposit the applicant must pay for certain Government service performed abroad, the agency must provide the applicant with a statement showing the total amount the applicant must pay. The statement should provide instructions for making the payment showing:

- when the applicant must pay the deposit (no later than 180 days after the applicant receives the deposit statement),
- how the applicant can pay the deposit (in one lump sum),
- where the applicant should send the payment, and
- who the applicant can contact at the agency if the applicant has any questions about the payment.

The statement should also note that the applicant will owe additional interest if the payment is not received by the agency processing the deposit by the end of the calendar year when the 6-month period the applicant has to pay the deposit spans the end of a calendar year.

Forwarding the Employee and Employer Deposits to OPM

The agency processing the deposit must use the SF 2812 system through RITS to remit both the employee's portion and the agency's portion of the deposit. The agency needs to report the combined employee and agency share deposits, and both interest amounts in the applicable Withholdings and Contributions columns on the Regular FERS line of the Standard Form (SF) 2812. The agency does not need to make a special entry or annotate the SF 2812 for the interest amounts. The agency also needs to report the employee share deposit without interest when completing the SF 3103 according to current procedures. Agencies are reminded that they are not to amend previously submitted SF 2812s to accommodate the deposit payment, but to prepare and send a new SF 2812. The complete deposit (both the employee's portion and the agency's portion) should be remitted to OPM at the end of the established payroll cycle in which the payment is made. Agencies can contact the Financial Management Division at 202-606-0666 if they have any questions about completing the SF 2812 or RITS.

If the agency where the service was performed no longer exists and the Department of State is processing the deposit, the Department of State needs to only remit the applicant's portion of the deposit. It still must document the agency's portion of the deposit on the records documenting the service credit payment, however. (See *Completing Required Documentation* below.)

Completing Required Documentation

After the applicant completes the deposit for certain Government service performed abroad, the agency processing the deposit must document the service and the payment on an SF 3100, Individual Retirement Record (Federal Employees Retirement System). The agency should insert the name and appropriate identifying information of the individual who performed the service at the top of the SF 3100. For each period of service covered by the deposit, the agency should document the following information in the *Service History* side of the form (columns 1-4):

- the effective date of the appointment, the nature of action, and the beginning basic pay salary rate;
- the effective dates, natures of action, and basic pay salary rates for all pay changes that occurred during the appointment;
- part-time tours of duty for any service performed on a part-time work schedule, and the amount of time actually worked (days or hours) for any service performed on an intermittent work schedule (record a separate action every time the employee's work schedule changes);
- periods of leave without pay (record separate actions documenting every time the employee entered a leave without pay status and returned to pay status); and
- the effective date the appointment ended, nature of action, and basic pay salary rate.

Under the *Fiscal Record* side of the form (columns 5-8), the agency should post the following information:

- the calendar year for which the deposit was made, the applicable employee share of the deposit without interest for that calendar year, and the accumulative employee share of the deposit without interest;
- the total employee deposit without interest (shown as “Employee Deposit Without Interest: [amount]”);
- the interest on the employee deposit (shown as “Interest on Employee Deposit: [amount]”);
- the total employee deposit with interest (shown as “Total Employee Deposit With Interest: [amount]”);
- the agency deposit without interest (shown as “Agency Deposit Without Interest: [amount]”);
- the interest on the agency deposit (shown as “Interest on Agency Deposit: [amount]”); and
- the total agency deposit with interest (shown as “Total Agency Deposit with Interest: [amount]”).

The agency can place multiple periods of service on a single SF 3100, provided that each period of service is listed separately and recorded as instructed above. The employee shares of the deposit without interest for each period of service performed within a calendar year do not need to be listed separately; the deposits can be combined and listed as a single calendar year entry in the year in which the service periods were performed.

In addition to the information described above, the agency should also certify that the service meets all of the requirements for service credit under section 321 of Public Law 107-228 by including the following statement between the Service History and Fiscal Record under the last service or deposit information entry:

ALL DEPOSITS PAID IN FULL.
EMPLOYEE AND AGENCY DEPOSITS CERTIFIED CORRECT.
SERVICE CERTIFIED AS QUALIFYING UNDER P.L. 107-228.

This statement should be signed and dated by an appropriate certifying official.

The agency should also include the following statement in the Register of Separations Number (SF3103) section of the Individual Retirement Record:

DEPOSIT FOR CERTAIN GOVERNMENT SERVICE PERFORMED ABROAD PURSUANT TO PUBLIC LAW 107-228.

Register of separations information can be placed above this statement on the SF 3100.

We have included an example showing how the SF 3100 should be prepared in Attachment 5.

If the Department of State is processing the service credit application because the agency where the service was performed no longer exists, the Department of State should provide the information about the FERS Government contribution on the SF 3100 even though it will not

remit that amount to OPM. It should note in the agency certification that the amount of the FERS Government Contribution should be treated as part of the supplemental liability referred to in section 8423(b)(1) of title 5, United States Code.

In addition to documenting the service on the SF 3100, the agency must provide the applicant with a letter documenting the creditable service, confirming that the applicant's deposit has been paid in full, and stating that the service is creditable for FERS retirement under section 321 of Public Law 107-228. The agency should file a copy of this letter on the right side of the employee's Official Personnel Folder (if it has the Official Personnel Folder), or forward a copy of the letter to the agency where the employee is currently employed so it can be filed in the Official Personnel Folder. We have provided sample language an agency could use in its letter in Attachment 6.

Forwarding Documentation to OPM

Except as noted below, after the applicant pays the deposit, and the applicant's share and the agency's share has been remitted to OPM, the agency processing the deposit must forward the completed SF 3100 and SF 3103 to OPM along with the application for service credit, the applicant's cover letter, the personnel actions documenting the service, and documentation of the deposit computations. The agency should forward this information to:

Office of Personnel Management
Retirement Operations Center
P.O. Box 45
Boyers, PA 16017-0045

The SF 3100 and other documentation should be submitted no later than 30 days after the deposit is remitted to OPM.

Exception: if the applicant is the person who actually performed the Government service abroad, and if the applicant is a current employee of the agency processing the deposit, the agency processing the deposit should wait until the employee transfers, separates, or dies in service before sending the SF 3100 and other documentation to OPM.

Additional Actions Required of the Current Employing Agency

When a current Federal employee pays the appropriate deposit necessary to make certain Government service he or she performed abroad creditable, the agency processing the deposit will send the employee's current employing agency (if the current employing agency is different from the agency processing the deposit) a copy of a letter it provided the individual confirming that the service is now creditable. (See Attachment 6 of this BAL for sample language that could be used in such a letter.) The employee's current employing agency must file that letter on the right side of the employee's Official Personnel Folder. It must also recalculate the employee's service computation date for retirement to include credit for the service. If and when the employee retires, the current employing agency must include the service on the Certified Summary of Federal Service (SF 3107-1), with the following remark:
"Non-deduction service creditable for FERS retirement under section 321 of P.L. 107-228."

Robert F. Danbeck,
Associate Director
Division of Human Resources Products &
Services Division

Attachment 1: Sample Cover Letter Language

Attachment 2: Checklist

Attachment 3: Retirement Operations Center Request

Attachment 4: Variable Interest Rates – 1989 to Present

Attachment 5: Example Individual Retirement Record

Attachment 6: Sample Language for Letter Verifying Certain Service Performed Abroad