

## **II. INVESTING IN THE FEDERAL WORKFORCE - 2016**

While federal employees saw improved morale and employee engagement in 2015, as seen in the Federal Employees Viewpoint Survey, they still faced the threat of a partial federal government shutdown, budget limitations due to sequestration, and hamstrung projects and programs due to operating on continuing resolutions instead of the appropriations process. Though the federal workforce faces these obstacles, it continues to see greater demands on agencies and departments' duties. To maintain a federal workforce that meets the needs of the American public, the government must continue to invest in personnel reforms that will allow agencies to fill key positions throughout all ranks. The Federal Managers Association (FMA) stands behind civil servants who perform invaluable work on a daily basis without fanfare and who have dedicated their lives to ensuring the success of vital government programs.

In recent years, FMA has achieved legislative successes geared at making these investments on behalf of federal workers, including providing a Self Plus One option when enrolling in health benefits, and providing sick leave up front to newly hired disabled veterans. The Wounded Warriors Federal Leave Act, which passed unanimously and was signed into law in November 2015, was an idea originated by an FMA member. As the 114<sup>th</sup> Congress works through its second session, FMA will continue to work with Senators and Representatives in order to promote the federal workforce and its members through ensuring they receive the pay and benefits they have earned and deserve. By fostering a federal workforce that not only enables agencies to recruit and retain the best and the brightest to civil service for the benefit of the entire country, but also builds the morale of employees, FMA believes there will be marked improvements in efficiency within the federal workforce. The following recommendations reflect our commitment to the creation of such a work environment.

### **SUMMARY OF FMA LEGISLATIVE RECOMMENDATIONS**

- 1. Congress should restore the practice of evaluating civil service pay adjustments for both General Schedule and Wage Grade employees on a yearly basis, protect benefits and resume granting performance awards to those deserving.**
- 2. Congress should provide lifetime identity protections to federal employees and their dependents affected by the data breaches at the Office of Personnel Management.**
- 3. Congress should reinstate pre-November 2014 funding levels for Department of Defense per diem allowances and lodging stipends for those on temporary duty assignments longer than thirty days.**
- 4. Congress should pass legislation to provide the same tax benefits to federal civilian employees serving in combat zones as those given to military personnel and contractors.**
- 5. Congress should not utilize chained-CPI for computing cost-of-living adjustments for Social Security, Supplemental Security Income, Veterans benefits and federal pensions.**

6. **Congress should amend the Non-Foreign Retirement Equity Assurance Act to allow an opt-in option for all Non-Foreign Area retirees who retired between January 1, 1994 and December 31, 2009.**
7. **Congress should establish parity with the private sector within the Federal Employee Health Benefits Plan (FEHBP) by allowing federal retirees to pay their health insurance premiums out of pre-tax dollars.**
8. **Congress should allow Federal Employees Retirement System (FERS) employees to make deposits for non-deduction service performed, in the same manner as Civil Service Retirement System (CSRS) employees and former military personnel.**
9. **Congress should pass legislation to repeal the Government Pension Offset (GPO) and the Windfall Elimination Provision (WEP).**

## **RETURN TO ANNUAL CALCULATION OF CIVIL SERVICE PAY ADJUSTMENTS**

*To attract and retain the best and brightest to public service, Congress must stabilize the pay and benefits structure of federal employees.*

In December 2010, President Barack Obama signed into law legislation establishing a two-year pay freeze for all employees of the federal civil service. The freeze was extended through a third year, until a one percent cost-of-living adjustment took effect on January 1, 2014. Feds received another one percent raise for Fiscal Year 2015 and a 1.3 percent raise for FY 2016 as part of the omnibus spending plan agreed to in December 2015. In February 2016, Representative Gerry Connolly (D-VA) worked on draft legislation, the Federal Adjustment of Income Rates (FAIR) Act, calling for an increase of 5.3 percent. Given the multiple years with no raise or minimal raises, FMA supports this effort.

While acknowledging the difficult economic challenges facing American families in all walks of life across the country, FMA firmly believes that any discussion concerning federal employee pay and compensation should center on the formulaic process employed by the Bureau of Labor Statistics to determine annual salary adjustment recommendations. FMA understands the demands placed on our economy and the current state of our fiscal crisis; however, the nation's record deficit is not the result of rising or exorbitant federal employee salaries, and claims to the contrary are false.

Since 2011, federal employees contributed roughly \$140 billion to deficit reduction, despite making up less than one percent of the nation's population. In recent years, Congress targeted the pensions of new hires as a means to rein in spending, increasing employees' contributions without improving upon pension benefits or increasing the government's contribution. Those hired after December 31, 2013, with less than five years of experience in the federal workforce will contribute 3.1 percent of their salaries to their retirement benefits, while those hired after December 31, 2014, will contribute 4.4 percent. Decreases to take-home pay negatively impacts recruitment and retention of dedicated men and women in public service and further deteriorates morale. FMA members will continue to do their part to help our country restore its financial standing, but steps to reduce spending should not be unduly carried by civil servants.

## **PROVIDE LIFETIME IDENTITY AND FINANCIAL FRAUD PROTECTIONS**

***Congress should provide lifetime identity protections to federal employees and their dependents affected by the data breaches at the Office of Personnel Management.***

On June 4, 2015, the Office of Personnel Management (OPM) announced that over four million current and retired federal employees' personally identifying information (PII) was compromised by a cyber data breach. In the following weeks, it was discovered that 21.5 million more people were affected by a background investigation breach of security clearance forms SF 86, SF-85, and SF-85P. This included data not only on current and retired federal employees, but also separated and prospective employees as well as their family members. Currently, OPM only offers at most three years of protection for those affected. However, once these protections expire, victims of the data breach will once again be at risk.

In response, the Federal Managers Association issued letters to OPM, President Barack Obama, and Congress, calling for better protections offered to those whose data was jeopardized, and to hold those accountable responsible for their negligence. We at FMA appreciate the efforts of legislators to include ten years of protection as part of the Consolidated Appropriations Act (P.L 114-113). Through the efforts of FMA, both the House and Senate introduced the Reducing the Effects of the Cyberattack on OPM Victims Emergency Response (RECOVER) Act (S. 1746 / H.R. 3029), legislation that calls for lifetime protection on behalf of all those affected. FMA urges that Congress take up and pass this important measure to provide protection and peace of mind to the more than 22 million victims of these breaches.

## **RESTORE PER DIEM LEVELS AT THE DEPARTMENT OF DEFENSE**

***Congress should reinstate pre-November 2014 funding levels for Department of Defense per diem allowances and lodging stipends for those on temporary duty assignments longer than thirty days.***

In November 2014, the Department of Defense instituted cuts to per diem allowances for civilian employees on temporary duty assignments (TDY). Those on TDY between 30 and 180 days face a reduction by 25 percent, while those over 180 days face a 45 percent reduction. These extreme cuts create undue financial burdens on these dedicated employees who struggle to meet these per diem requirements or are forced to make up any cost differences out of their own pockets due to the fact that these new rates price them out of markets.

Since the implementation of these cuts, FMA members have seen reluctance from civilian employees to volunteer for TDY service. As TDY is not mandatory, FMA members are finding it difficult to find qualified employees willing to take up this burden. FMA, along with other federal workforce advocacy groups and Members of Congress, have worked to reverse these cuts. The House version of the National Defense Authorization Act, H.R. 1735, called for a repeal of cuts, however, the Senate version, S. 1118, only called for a study of the effects of the cuts; this language was included in the final draft of the National Defense Authorization Act Fiscal Year 2016, P.L. 114-92.

FMA will continue to work with Members of Congress, including appropriators and budgeters, to reinstate the funding for TDY per diem allowances. In order to ensure a civilian military workforce that is fully capable of meeting its duties, it is imperative that this funding is restored.

## **SUPPORT TAX PARITY FOR CIVILIANS WORKING IN COMBAT ZONES**

*Congress should pass legislation that provides the same tax benefits to federal civilian employees serving in combat zones as those given to military personnel and contractors.*

Currently, military personnel and federal contractors serving in combat zones such as Afghanistan receive tax exemptions on their base pay. The moment service members step into a combat zone, they no longer pay federal taxes. Federal contractors also receive substantial tax breaks through the foreign earned income tax exclusion.

While FMA applauds and agrees with the policy for military personnel, it is important to create parity for federal civilian employees so they are eligible for these tax exemptions when voluntarily serving in a danger zone. Reports have stated that approximately 5,000 civilians are working in combat zones around the world at any given time. Thousands of them are serving alongside members of the Armed Forces as firefighters, depot maintenance and repair workers, and in other support positions on the ground abroad.

Civilian employees do not receive any kind of tax benefit while serving in combat zones. Rather, they are sometimes provided “post differential” and “danger” pay, but this is not guaranteed. In the 113<sup>th</sup> Congress, Congressman Rob Wittman (R-VA) introduced the Federal Employee Combat Zone Tax Parity Act (H.R. 4621) to afford civilians the same tax benefits as their military and contracted counterparts. We at FMA urge Congress to consider similar legislation in the 114<sup>th</sup> Congress.

## **MAINTAIN THE CURRENT METHOD FOR COMPUTING COST-OF-LIVING ADJUSTMENTS**

*Congress should not utilize chained-CPI for computing cost-of-living adjustments for Social Security, Supplemental Security Income, Veterans benefits and federal pensions.*

Proponents of the chained-Consumer Price Index (chained-CPI) argue it is a more precise calculation that reflects nuances of substituting purchases as commodity prices change. A common example to illustrate the concept is that if the price of beef rises, people will buy a less expensive alternative, such as chicken or pork. However, necessary items such as medications cannot be easily substituted. Senior citizens often face rising health care costs with no alternatives. With a change to utilizing a chained-CPI, seniors could be forced to make decisions between food and prescription drugs.

Chained-CPI would result in lower cost-of-living adjustments (COLAs) for federal pensions, social security benefits, supplemental security income benefits and veterans’ benefits. While the COLA cuts are often described as “modest” or even “harmless,” the cuts would dramatically affect those who can least afford to sustain yet another hit to their limited income. And these “modest” cuts quickly add up. The switch to chained-CPI is estimated to save the government more than \$162 billion over ten years. The average federal retiree would lose \$48,000 and retired military would lose \$42,000 over 25 years.

FMA strongly opposes this proposed shift. Retirees worked hard over a dedicated lifetime of service to earn their benefits. As difficult and necessary decisions regarding the FY2017 budget are made, FMA urges Congress to protect the benefits America’s retirees worked so hard to obtain and reject efforts that would switch to a chained-CPI as the formula for determining COLAs.

## **AMEND THE NON-FOREIGN AREA RETIREMENT EQUITY ASSURANCE ACT, LOCALITY PAY**

*Congress should amend the Non-Foreign Retirement Equity Assurance Act to allow an opt-in option for all Non-Foreign Area retirees who retired between January 1, 1994 and December 31, 2009.*

The Federal Employee Pay Comparability Act (FEPCA), implemented in 1994, provided a procedure for allocating annual pay raises for those localities where private sector/local government salaries were higher than federal salaries. This locality pay covered federal employees in the 48 contiguous states, excluding Alaska and Hawaii.

All federal employees deserve equitable pay and retirement treatment and should not be penalized for choosing to serve outside the 48 contiguous States. Federal employees in Alaska and Hawaii have been denied equitable locality pay since 1994 and the retirement benefits that derive from this base pay amount as compared to their counterparts in the remaining 48 states.

As of January 1, 2010, the Non-Foreign Area Retirement Equity Assurance Act (NAREAA), as contained in the National Defense Authorization Act for Fiscal Year 2010 (P. L. 111-84) corrects the locality pay and retirement inequities for currently employed Non-Foreign Area federal employees. However, the NAREAA does not provide any remedy for a significant portion of the federal employee population: retirees. Amending NAREAA to cover those who retired between 1994 and 2009 would resolve an inequity.

To correct this inequity, FMA urges Congress to pass an amendment to the Non-Foreign Area Retirement Equity Assurance Act that would allow a similar opt-in option for all Non-Foreign Area retirees who have retired after January 1, 1994 in order to receive their comparable annuities based on locality pay consideration.

## **OFFER PREMIUM CONVERSION TO FEDERAL RETIREES IN THE FEHBP**

*Congress should reintroduce and approve legislation to establish equity by allowing federal retirees to pay their health insurance premiums out of pre-tax dollars.*

Since October 2000, federal employees have been eligible to pay their Federal Employee Health Benefits Program (FEHBP) insurance premiums with pre-tax earnings. This practice is called premium conversion, and all active employees and military personnel are automatically enrolled in the program. FMA supports extending this important tax benefit to federal retirees who have put in years of service to this country yet do not enjoy many of the benefits provided to current employees. This would establish parity with the private sector, whose employees and retirees currently enjoy premium conversion. Skyrocketing health care costs have caused federal and military retirees to struggle to keep pace with their growing insurance bills, a problem exacerbated in recent years.

Congressman Chris Van Hollen (D-MD) and then-Senator Jim Webb (D-VA) introduced legislation (H.R. 1203/S. 491) in the 111<sup>th</sup> Congress to extend premium conversion to retired public servants. H.R. 1203 gained 218 bipartisan cosponsors – more than half of the entire House of Representatives – while nearly half of the Senate cosponsored S. 491. FMA strongly supports reintroduction of this



critical measure. By allowing federal retirees to pay health care premiums on a pre-tax basis, we will create a system that fairly provides retirees with the help they need to cope with the dramatically rising cost of health care.

## **ALLOW ALL FEDS TO MAKE DEPOSITS FOR NON-DEDUCTION SERVICE**

*Congress should allow Federal Employees Retirement System (FERS) employees to make deposits for non-deduction service performed, in the same manner as Civil Service Retirement System (CSRS) employees and former military personnel.*

Under the Civil Service Retirement System (CSRS), non-deduction civilian service performed after September 30, 1982, is creditable for retirement annuity computation purposes, other than average salary, only if the employee pays a deposit for that service. Service on or before September 30, 1982, is creditable for annuity computation without a deposit; however, 10 percent of the deposit owed will be permanently deducted from the annual annuity.

Currently, a Federal Employee Retirement System (FERS) employee may make a deposit for non-deduction service performed before January 1, 1989, and receive credit toward his or her annuity computation; however, non-deduction service performed on or after January 1, 1989, generally is not creditable under FERS for any purpose.

FMA would like to see legislation passed to correct this inequality and allow FERS, FERS-Revised Annuity Employee (RAE), and FERS-Further Reduced Annuity Employee (FRAE) employees to make deposits for non-deduction service performed in the same manner as CSRS employees may for service performed after September 30, 1982. Under CSRS, an employee may redeposit deductions into the retirement system that were refunded to the employee upon separation from a CSRS-covered position. This redeposit includes interest for the period of time between the refund and the redeposit.

Currently, FERS employees are not permitted to redeposit funds withdrawn from their FERS retirement accounts. The FERS employee wishing to redeposit previously withdrawn funds should pay interest on the redeposit in the same manner as a CSRS employee. In both scenarios described, FERS, FERS-RAE, and FERS-FRAE employees should be allowed to pay a deposit or redeposit based on the amount of their contribution to the FERS system plus the applicable interest. FMA would also like to see legislation to address this inequality.

## **REMOVE INEQUITIES IMPOSED BY GPO AND WEP**

*Congress should pass legislation to repeal the Government Pension Offset (GPO) and the Windfall Elimination Provision (WEP).*

The Social Security Government Pension Offset (GPO) law prevents government retirees who receive a government pension but did not pay into Social Security from collecting both a government annuity based on their own work and Social Security benefits based on their spouse's work record. This is unfair to many spouses, especially widows, who often lose the Social Security protection their spouse provided for them. Under current law, a Social Security widow's benefit is reduced by \$2 for every \$3 earned if the widow is eligible for a pension based on a public sector job that was not covered by Social Security. A total of 465,000 Social Security beneficiaries are affected by the GPO, seventy-five



percent of whom are women and over forty percent are widowed. No offset affects spouses receiving pensions from private sector employers.

The Windfall Elimination Provision (WEP) is another inequity that disadvantages many federal retirees receiving Social Security benefits and a federal pension which did not require payment into Social Security. It reduces the Social Security benefits federal retirees receive based on the number of years they served in a federal position that did not require their payment of Social Security taxes. Nearly one million Social Security beneficiaries are affected, and roughly twenty percent paid into Social Security for over twenty years.

FMA recognizes that full repeal of both GPO and WEP is cost-prohibitive and, with deficit concerns a priority, full repeal is unlikely. In such a case, FMA also supports legislation that would seek partial repeal. After a lifetime career of government service, no retiree should be participating in federal “safety net” programs. Instead, he or she should receive the social security benefits rightfully earned through the payment of FICA taxes. FMA proposes that 185 percent of the federal poverty threshold be used as a means test. The threshold for one person would be used if the retiree has not provided a survivor benefit; the threshold for two persons would be used if a survivor benefit has been provided. If the retiree’s annual gross pension is at or below the appropriate threshold, both GPO and WEP would be waived.