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JOSEPH YOUNG, Editor
Don Mace, Associate Editor

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EASING UP ON CONTRACTING OUT—There is at least one bit of good news for federal employees these days. The Reagan administration is easing up on the ambitious contracting-out plans it once had.

There are several reasons for this change of heart. First, the Congress took a dim view of contracting out in-house federal work to the private sector that has historically been done well and cost-efficiently by government career employees. Among other things, Congress this year approved legislation signed into law by President Reagan that protects hundreds of thousands of defense jobs in so-called "core logistics functions" from being turned over to the private sector. And there were other contracting-out restrictions imposed by Congress on the Veterans Administration and 15 other agencies.

A second reason is the huge budget deficit estimated to rise above \$200 billion in fiscal 1986. When the administration began its drive to contract-out federal jobs to the private sector—at one point it was talking about upwards of 500,000 positions—cost factors appeared to be a minor consideration as long as industry could do the job effectively.

But all this has changed with the huge budget deficit. Costs are definitely a major factor and the administration realizes that in many instances it would cost more to contract-out these jobs.

So the administration has revised its thinking on contracting-out. It will proceed on a more modest scale.

Cost comparison reviews will be limited to 14 specific areas: automated data processing, data transcription and key punch, training, audiovisual, food service, facilities and ground maintenance, mail and file, architecture and engineering, library, laundry and dry cleaning, warehousing and stock handling, motor pool and vehicle maintenance, accounts management and loan processing.

Even in these areas the cost factors will be closely studied.

Also, specifically exempted from any review will be activities with less than 10 full-time employees; with handicapped employees that can't be placed elsewhere; policy-making and contract-monitoring jobs; and Defense Department activities exempted for national security reasons. And other government agencies may now compete for work that otherwise would be contracted-out.

MSPB REVIEWING SECURITY CLEARANCE JURISDICTION—The Merit Systems Protection Board is in the process of deciding if it (1) has the authority to review agencies' reasons for revoking or denying federal employee security clearances and (2) if it can order an agency to reinstate an employee's security clearance.

It has under review several cases substantially involving those issues and solicited outside comments (*amicus* briefs) in the Dec. 13, 1984, Federal Register.

The cases include: *Bogdanowicz v. Navy*, MSPB Doc. No. PH07528110587, Jan. 18, 1984; *Egan v. Navy*, SE07528310257, Dec. 22, 1983; *Griffin v. Defense Mapping Agency*, SL07528410150; *Peterson v. Army*, BN07528410010, July 6, 1984; and *Irving v. Navy*, BN07528410005, Feb. 14, 1984.

MSPB says comments must be filed no later than Jan. 14, 1985.

WINNER—The latest winner in our send-us-names contest is C.B. Harper of Stone Mountain, Ga., who will receive a copy of the handsome pictorial book on Washington, D.C.

FEDERAL CIRCUIT DECISIONS—The U.S. Court of Appeals for the Federal Circuit has issued several interesting decisions involving federal personnel policies and rules.

-2-

It upheld a two-grade demotion—from a GS-13 to GS-11—of a Defense Logistics Agency employee for lying about his academic background. The employee had claimed college credits from schools he never attended.

The appeals court said that in view of the employee “lying to the government,” he was “fortunate that the DLA did not levy a harsher penalty.”

(Daniels v. Defense Logistics Agency, 84-1194.)

The court also upheld the Interior Department in firing an employee who refused a reassignment that would have “inconvenienced” him. The employee who was ordered transferred from one town in Colorado to another claimed he was unable to meet the physical requirements of the new job. But the court rejected his contention, declaring his refusal of the reassignment was motivated by the “personal and financial inconveniences of the required move.”

(Kimsey v. Dept. of Interior, 84-982.)

The court also affirmed the demotion of a guard at the Bureau of Engraving and Printing—from GS-7 to GS-5—for physically attacking a fellow officer. “Obviously, the federal service cannot tolerate such unprovoked assaults on a fellow employee, and the penalty of demotion can hardly be deemed excessive or inappropriate. . .,” the court said.

(Wilson v. Dept. of Treasury, 84-1251.)

NEW EMPLOYEES—Those federal and postal workers hired after January 1, 1984, will pay 7.05 percent for their Social Security coverage starting next month instead of the previous 6.7 percent. Also, they will continue to pay 1.3 percent for civil service retirement coverage during 1985 or until a new supplemented retirement system is enacted for them.

HAPPY HOLIDAYS—As per custom, we will not publish for the next two weeks. Our next issue will be that of January 14, 1985. Meanwhile, our best wishes to you and yours for a Merry Christmas and a happy and healthy New Year.

TRANSSEXUAL SUES USPS OVER REFUSAL TO HIRE—A person identified in court records as Jane Doe has sued the U.S. Postal Service for withdrawing an offer of a clerk-typist job after he voluntarily disclosed he was about to undergo a sex-change operation and had been advised by doctors to wear a dress to help mentally adjust to the surgery.

USPS declined to hire Doe (who has since had that operation) because officials thought it might disrupt her co-workers.

Meanwhile, Doe says she has found work as a clerk-typist in another federal agency.

LUNCH TIME OVERTIME FOR LETTER CARRIERS REJECTED—The U.S. Court of Appeals for the Sixth Circuit has ruled that modest restrictions on the lunch period activities of letter carriers does not entitle them to be paid overtime for the 30-minute lunch period. The decision involved 12,000 letter carriers who were part of the class action suit filed under the Fair Labor Standards Act.

The representative plaintiff, Kenneth J. Hill, a letter carrier who works out of the post office in the Cleveland suburb of North Olmsted, may eat lunch at three places chosen by him and approved by his supervisors, and must arrive at the lunch place by an approved route. Before eating, he is required to make sure that the undelivered mail is secured in this postal vehicle. Also, during the entire length of the lunch period, he is responsible for the safety of that undelivered mail, cash-on-delivery (COD) money, keys to the vehicle and other valuables.

Hill contended that these responsibilities, plus the fact that he can be called upon by public while eating, means that the half-hour lunch period is in fact duty time that the USPS should pay for. Moreover, courtesy requirements mean that he may have to stop eating and accept mail, provide information, and perform other services during his lunch hour, the suit said.

However, the appeals court dismissed the suit, declaring that his lunch period is not being interfered with. “There may be cases where letter carriers are obliged to conduct more substantial duties during lunch

-3-

time and would be entitled to compensation," but this is not one of them, the court concluded.
(*Hill et al v. U.S., et al., CA 6, N. No. 83-3655, Nov. 21, 1984.*)

WOMEN'S ACCEPTANCE OF LOWER PAY DOESN'T JUSTIFY BIAS— Just because women employees are willing to accept lower pay for similar jobs held by men doesn't justify federal agencies paying them the lower wage, the U.S. District Court for Northern Georgia has ruled.

The case involved a women employee of the U.S. Civil Rights Commission who accepted a GS-11 position to perform basically the same work as a male GS-13. The agency justified its action by the fact that she was willing to accept the lower paying job as proven by her lower salary history as compared to a man.

But the court rejected this argument, explaining that women traditionally have been willing to accept depressed pay rates and have lower salary histories precisely because of discrimination. It also pointed out that the Commission admitted that it could have offered the men a lower grade but that they would not accept the jobs at that rate.

The court ordered the agency to pay the woman liquidated damages under the Equal Pay Act, pointing out that her supervisor knew that the Act applied to her and that she and her GS-13 male counterparts performed basically the same work.

(*Graboff v. Pendleton, USDC ND Ga., 36 FEP Cases 350, Sept. 27, 1984.*)

USE OF HEALTH CLUB FACILITIES HELD NON-NEGOTIABLE— The Federal Labor Relations Authority has ruled that the use of a health club by employees at an Air Force base is not a condition of employment and hence non-negotiable. The FLRA ruling came in a refusal-to-bargain case brought by American Federation of Government Employees Local 1138 against the Air Force Logistics Command (AFLC) at Wright-Patterson Air Force Base, Ohio. The union sought to link health club participation to employee productivity by showing that workers are more alert at work as a result of using the club. But FLRA said the health club use is more of an off-duty recreational pursuit than an element of employment.

(*AFLC and AFGE Local 1138; 16 FLRA No. 51, Case No. 5-CA-20017, Oct. 31, 1984.*)

PRESIDENT'S BUDGET EXPECTED TO CALL FOR STABLE U.S. EMPLOYMENT— President Reagan's budget message to Congress next month is expected to call for stabilized overall federal employment for the 1986 fiscal year starting next October. Although there will be some employment fluctuations in various agencies, the overall total is expected to remain somewhat the same.

Office of Management and Budget officials have been quick to disclaim the predictions of some Office of Personnel Management spokesmen that a 125,000 federal personnel cut would be undertaken if the Reagan's 5 percent federal pay cut proposal is rejected by Congress. OMB officials said they have no such plan currently under consideration.

Meanwhile, Reagan's budget proposals are expected to call for the elimination of the Small Business Administration and the Legal Services Corporation. Reagan previously sought abolishment of Legal Services along with elimination of the Department of Energy and Education, all of which were rejected by Congress.

HOUSE PANEL TO CONSIDER TOTAL COMPENSATION PACKAGE— The House Subcommittee on Compensation and Employee Benefits will conduct extensive hearings early next year on the full array of pay and fringe benefits available to federal workers.

The hearings are expected to be a big draw because the Reagan administration is mounting a fullscale assault on pay (it has reworked the GS pay-setting formula by using smaller firms for comparison purposes and is proposing a five percent federal pay cut next October, and massive reductions of federal retirement benefits which it says are far too generous).

A recent review of the federal compensation system performed by the independent Hay Group for the House Post Office and Civil Service Committee showed federal pay 10.3 percent behind that of the private sector, health care by 2.2 percent, disability compensation by .7 percent, death benefits by .3 percent and executive perquisites lagging by 1.2 percent.

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December 24, 1984

-4-

But it also found federal retirement ahead by 6.4 percent and leave and holiday privileges .8 percent above private industry practice.

Thus, the differential is about 7.2 percent in favor of the private sector employees, according to the Hay findings.

FAA EMPLOYEES SATISFIED WITH PAY, BUT NOT WITH AGENCY'S HUMAN RELATIONS— An attitude survey taken by the Federal Aviation Administration among its 47,097 employees reveals that they generally are satisfied with their pay and challenged by their jobs. But they believe that management's human relations skills need improving. A total of 25,781 employees, or nearly 55 percent, answered the survey's questionnaire.

More than 75 percent said FAA pays well and offers good job security. About 70 percent felt challenged by their jobs, and an even higher percentage expressed respect for their co-workers.

But slightly more than 50 percent of the respondents faulted top management and supervisors for being uninterested in human relations, for not keeping employees informed about what is taking place within the organization, and for not caring whether employees are satisfied in their work. Also, more than 50 percent said they do not feel they are given a fair opportunity for promotion. There were a substantial number of complaints that competition for slots is rigged.

FAA administrator Donald D. Engen said panels of management experts will be sent to FAA facilities to analyze and suggest improvements in human relationship. He promised that another survey will be taken in 1986 to measure progress as a result of action taken in response to this survey.

TIE QUIT RATE TO PAY— Declaring that the government employee "quit" rate is only 3.8 percent compared to three or four times the turnover rate in the private sector, the Office of Personnel Management announced it will seek a new federal compensation system based on this comparison of voluntary quit rates.

The OPM said it will go ahead with its plan to add smaller firms of 20 or more employees to the PATC Survey (for professional, administrative, technical and clerical) conducted by the Bureau of Labor Statistics in the private sector and on which federal pay comparability is based. Also non-profit firms such as hospitals and schools will be included.

In addition, state and local government pay rates will be included if Congress approves. The others can be included without legislation. OPM said that the present PATC survey excludes 40 to 60 percent of the American non-farm work force.

The OPM study asserted that federal workers are overpaid in comparison with private industry, but gave no figures to support its contention. Its argument was that fewer federal workers quit their jobs compared with those of the private sector because federal workers were so well compensated.

The OPM said that reducing federal pay by 5 percent for the fiscal year 1986 and then freezing pay over three years would trim budget deficits by 13 billion dollars.

(The Comptroller General has ruled that federal departments and agencies may purchase subscriptions to the *Federal Employees' News Digest* with government funds. The decision is No. B-185591, issued May 5, 1976.)

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P. O. Box 7528, Falls Church, VA 22046

Telephone (703) 533-3031