OFFICE OF THE UNDER SECRETARY OF DEFENSE
4000 DEFENSE PENTAGON WASHINGTON, D.C. 20301.4000

3 0 Dec 2003

PERSONNEL AND
READINESS

MEMORANDUM FOR: SEE DISTRIBUTION

SUBJECT: National Security Personnel System - Voluntary Separation Incentive Pay (VSIP) and Voluntary Early Retirement Authority (VERA) Policy

Section 9902(i) of title 5, United States Code (U.S.C.), as enacted by section 1101 of the National Defense Authorization Act for Fiscal Year 2004, Public Law 108-136 (November 24, 2003), provides authority for the Secretary of Defense to establish a permanent downsizing and restructuring VSIP and VERA program within the Department. This program includes early retirement approval authority as well as conditional approval authority for separation incentives (applied to voluntary and early retirement as well as voluntary resignations), commonly referred to as buyouts. By memorandum dated December 30, 2003, the Under Secretary of Defense (Personnel and Readiness) re-delegated this authority to this office. This memorandum delegates that authority to Component Heads for positions up to the GS-15 level (and equivalent) and authorizes further delegation to the lowest practicable level, but not lower than the local commander or activity head. The attached guidance provides implementation, documentation and report information.

Annual usage of both downsizing and restructuring buyouts is limited to 25,000 (legislation does not limit actions resulting from Base Realignment and Closure activity or for non-appropriated fund employees). Based on FY 2003 end-strength, the Military departments and the Fourth Estate are provided the following buyout allocations: Army -7,722, Navy -7,135, Air Force - 5,873, and the Fourth Estate - 4,270. The Military Departments and the Washington Headquarters Services (WHS), acting for the Fourth Estate, are responsible for assigning allocations to organizations under their purview and ensuring the allocations are not exceeded, including application to senior level positions (Senior Executive Service, Senior Level, Scientific and Technical, Defense Intelligence Senior Level, Defense Intelligence Senior Executive Service, those pay-banded positions above the GS-15). There is no limitation on the use of early retirement authority so long as the actions are consistent with the attached guidance.

Authorized users may immediately initiate use of this authority within the buyout allocations indicated above so long as affected employees leave government service during FY 2004. It will be necessary to report quarterly allocation use to the Civilian Personnel Management Service, Civilian Assistance and Re-Employment (CARE) Division office to ensure that allocations are effectively used and reallocated as necessary. All other reporting will be accomplished through automated methods. Likewise, it should be noted that future use of these authorities for Base Realignment and Closure purposes will require additional reporting in accordance with the NDAA for FY 2004.

If you require additional information or clarification of the guidance provided, you should contact the CARE office at (703) 696-1799, (DSN: 426).

Ginger Groeber
Deputy Under Secretary
Civilian Personnel Policy

Attachment:
As stated

DISTRIBUTION: ASSISTANT 0-1 FOR CIVILIAN PERSONNEL POLICY,
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EXCHANGE SERVICE

Department of Defense

Voluntary Early Retirement Authority (VERA) and
Voluntary Separation Incentive Pay (VSIP)

Guidance and Procedures

General Information

- Section 9902(i) of title 5, United States Code, as enacted by section 1101 of the National Defense Authorization Act for Fiscal Year 2004, Public Law 108-136 (November 24, 2003) gives the Secretary of Defense permanent authority to establish a program within the Department of Defense under which employees may be eligible for voluntary early retirement, offered separation incentive pay (commonly known as buyouts) to separate from service voluntarily, or both. This authority may be used to reduce the number of personnel employed by the Department of Defense or to restructure the workforce to meet mission objectives without reducing the overall number of personnel. This authority is in addition to, and notwithstanding, any other authorities established by law or regulation for such programs.

- The law now authorizes the Secretary of Defense to offer voluntary early retirement to DoD employees. There is no longer a requirement to seek yearly approval from the Office of Personnel Management (OPM). Because the authority is permanent, it may now be used to project multi-year VERA usage. When used in combination with the buyout authority, the fiscal year buyout limitation (see limitation referenced below) must also be applied. As a result, the buyout limit may constrain combined use of VERA and VSIP.

- In addition, the law allows the Secretary to offer separation incentives to employees eligible for early or optional retirement and to employees who desire to resign.

- This guidance implements the new Secretary of Defense authority for Voluntary Early Retirement Authority (VERA), Voluntary Separation Incentive Pay (VSIP), and VSIP Phase II within the Department of Defense.

- The Heads of the DoD Components, including the Director, Washington Headquarters Services (WHS), on behalf of the Office of the Secretary of Defense, are delegated authority to approve early retirement and voluntary separation incentives for employees occupying positions up to the GS-15 level (or equivalent). See page 8 for guidance concerning executive level employees (occupying positions above the GS-15 level).

- Authorized Component Heads are also delegated authority to approve non-appropriated fund (NAF) separation incentive pay in accordance with DoD 1400.25-M, Subchapter 1417. All such payments must be made from non-appropriated funds.

- These authorities may be redelegated in writing to the lowest practicable level, but not lower than the local installation commander or activity head.

- Under the new law, the Secretary may not authorize the payment of voluntary separation incentive pay to more than 25,000 employees in any fiscal year. Each buyout payment (whether by resignation, early or optional retirement or for restructuring or downsizing) counts toward the statutory limitation. This limitation does not apply to payment of buyouts related to closure or realignment of a military installation under the Defense Base Closure and Realignment Act of 1990 as amended by-the NDAA for FY 2002, sections 3001 through 3008, or to NAF employees.

- At the beginning of each fiscal year, the Military Departments and the Fourth Estate are annually allocated a share of the 25,000 limitation based on projected prior fiscal year end-strength. The Military Departments, and the Washington Headquarters Services (WHS) acting for the Fourth Estate, are responsible for assigning allocations to organizations under their purview and ensuring the allocations are not exceeded.

- Receipt of a buyout or an early retirement is not an employee entitlement regardless of the availability of adequate authority allotments. With this in mind, these tools must be applied in accordance with the policy and procedure provided in this document. To avoid any appearance of misuse or misunderstanding of purpose, it is essential that installations anticipating RIF action or closure offer buyouts at least 30 days before RIF notices are issued; however, a Component Head may waive the 30-day requirement when legal authority has not been provided in sufficient time to accomplish necessary actions within that timeframe. This clear indication of buyout use to avoid or minimize the need for civilian employee involuntary separations will likewise avoid unnecessary third party appeals.

- Subject to the guidance and procedures set forth below, these incentives may be used to reshape or reduce the Department of Defense's civilian workforce, create vacancies for the placement of employees subject to involuntary separation by RIF, and avoid the need for involuntary separations during RIF including executive level positions.

Voluntary Early Retirement Authority (VERA) Use

All VERA actions must adhere to the guidance and procedures delineated below:

- The reasons for approving a VERA include substantial delayering, reorganization, reductions in force, transfer of function, or other workforce restructuring.
- VERA may be used to reduce the number of personnel or to restructure the workforce to meet mission objectives without reducing the overall number of personnel
- VERA may be based on occupational series or grade; skills, knowledge, or other factors related to a position; as well as organizational, geographical, and nonpersonal and objective factors, or any combination of these factors.
- Only employees continuously employed within the Department of Defense for more than 30 days before the date on which the determination to conduct a workforce reduction or restructuring action has been approved are eligible to receive a VERA.
- Employees serving under time-limited appointments, as well as employees in receipt of a decision of involuntary separation for misconduct or unsatisfactory performance, will not be offered VERA.

Voluntary Early Retirement Authority Instructions

- Each DoD installation using VERA should determine and publicize the maximum number of local VERA approvals and the anticipated number of opportunity periods (windows) required.
- Multiple opportunity periods (windows) may be used to better meet organizational needs.
    - The organization may choose to open one opportunity period or several opportunity windows to achieve the total retirements within its overall requirements. For example, 25 applications could be solicited and

approved during each of five different opportunity windows in order to reach the desired total. (Local VERA limits may result from the number of buyout allocations provided the activity to comport with the Component Agency allotment.)

- When multiple windows are used, the covered employees must be informed, by an announcement made prior to receipt of applications, of these limitations and the separate opportunity windows. In the event that approved nonpersonal factors other than leave service computation date are used to determine early retirement eligibility, these factors must be included in the announcement.

- General announcement of a single opportunity period should indicate the dates for opening and closing, the number of anticipated VERA, and any approved nonpersonal and objective factors being considered.

- Usage may cover more than one organizational element and more than one geographic location.

- When used for downsizing, the retiring employees must be off the rolls by the expiration or termination date (RIF effective date); VERA recipients may not be retained in a duty status after the effective date of the respective RIF for any reason.

Processing VERA Actions

- For each voluntary early retirement, the individual retirement record (Standard Form 2806 for Civil Service Retirement System (CSRS); Standard Form 3100 for Federal Employees Retirement System (FERS)) must show the appropriate CSRS or FERS authority. A statement containing the following must appear in the last line of the service history portion (both forms): RET 5 U.S.C. 9902(i).

- Personnel actions used to separate employees who are retiring under this authority must reflect the appropriate nature of action and legal authority codes indicated below:

Block	CSRS Code	FERS Code
5-A	303	303
5-B	Retirement-Special Option	Retirement-Special Option
5-C	ZLM	USM
5-D	5 U.S.C. 9902(i)	5 U.S.C. 9902(i)

<u>Combined Voluntary Separation Incentive Pay and Voluntary Early Retirement Authority Use</u>

- Targeting buyouts based on occupational series and grades continues to be an effective management tool. Employees who receive VSIP may or may not be the same as those who retire under VERA. (Note: There is no limit on the number of early retirements that can be approved.)

- Under DoD's authority, VERA may be used in conjunction with the VSIP Phase II Program.

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<u>Voluntary Separation Incentive Pay Use</u>

- The payment of VSIP is limited to not more than 25,000 employees in any fiscal year, except that employees who receive a buyout as a result of a closure or realignment of a military installation under the Defense Base Closure and Realignment Act of 1990, as amended by the National Defense Authorization Act for FY 2002, sections 3001 through 3008, and NAF employees shall not be included in that number. At the beginning of the fiscal year, the Military Departments and the Fourth Estate will be allocated a share of the 25,000 statutory allotment based on projected prior FY end-strength.

- The Military Departments, and the Washington Headquarters Services (WHS) acting for the Fourth Estate, are responsible for assigning allocations to organizations under their purview and ensuring allocations are not exceeded.

- The VSIP authority will be used to reduce the number of personnel employed by the Department of Defense (downsizing) or to restructure the workforce to meet mission objectives without reducing the overall number of personnel (restructuring). Employees accepting a buyout may separate from service voluntarily in either circumstance by retirement or resignation. Workforce downsizing buyouts may be offered at any time and location where the acceptance of an incentive will avoid civilian involuntary separations.

- The buyout payment is equivalent to an employee's severance pay entitlement up to a maximum of $25,000 (gross before taxes and deductions) paid upon the voluntary resignation, voluntary early retirement, or optional retirement of designated civilian employees. The amount of separation pay is not discretionary. Supporting human resources offices shall calculate the amount using the severance pay formula as specified in 5 U.S.C. 5595 (c). The buyout may be paid in a lump sum or in installments. The sample forms provided at Appendix A provide lump sum (A-I) and installment payment agreements (bi-weekly/A-2 and 6-month/A-3) and related information.

- An employee not eligible for severance pay may receive the buyout. The receipt of a buyout does not affect any subsequent entitlement to severance pay as provided in 5 U.S.C. 9902(i)(5)(B).

- Workforce restructuring buyouts allow the Department to reshape its workforce. without resorting *to* a RIF or RIF avoidance action, and requiring the loss of a position. The application and use of the workforce restructuring buyout must be tied directly to workforce restructuring actions, where management offers the buyout to create vacancies that will be reshaped to meet mission objectives of the Department.

    - Workforce restructuring buyouts may be used to correct skill imbalances or to reduce the number of high grade, managerial or supervisory positions.

    - Position restructuring is restricted to the vacancy created by application of the buyout. The position vacancy should be at a lower grade, when feasible. Each resulting vacancy must be filled in accordance with all applicable staffing and mandatory placement requirements.

    - Workforce restructuring criteria are provided by the following examples:

        - To correct skill imbalances, e.g., offering the buyout to a journey level employee, and reshaping the position to an entry-level position in the same or different job series.

        - To reduce the number of high grade, managerial or supervisory positions, e.g., flatten the organizational hierarchy by redistributing higher-level positions to front-line, service delivery positions.

- The Department of Labor, Office of Workers' Compensation Programs (OWCP) must be notified prior to any employee, who is currently receiving injury compensation payments, being paid a buyout. OWCP shall interrupt compensation payments for the number of weeks equal to the VSIP amount.

- Employees accepting early or optional retirement in conjunction with a separation incentive must meet the age and years of service requirements for retirement eligibility by the effective date of their retirement.

- Supporting human resources offices shall establish internal procedures to identify job applicants subject to reemployment restrictions or VSIP repayment requirements, prior to their appointment.

- When reemployment requires VSIP repayment, the employing activity must contact and coordinate collection efforts with the agency making the payment. In these instances, the employing activity must contact its supporting Defense Finance and Accounting Office or other payroll support office, prior to appointment, so the amount of VSIP repayment may be calculated and collection of the debt may occur.

- When the number of employees applying for VSIP exceeds the offers available, applications within that group shall be processed in order of seniority using the leave service computation date (LVSCD).

<u>VSIP Eligibility</u>

- Only U.S. citizen employees defined by 5 U.S.C. 9902(i) and NAF employees are eligible for VSIP. In addition, employees:

    - Must be serving under an appointment without time limitation, and

    - Must have been employed by the Department of Defense for a continuous period of at least 12 months.

- Employees meeting the following criteria are ineligible for VSIP:

    - Is a reemployed annuitant under subchapter III of 5 U.S.C. chapter 83 or chapter 84, or any other retirement system for employees of the Federal Government;

- Is or would be eligible for disability retirement under any Federal employee retirement system;

- Is a non-compensated employee;

- Has accepted a position in another Federal agency;

- Has received a specific notice of RIF separation;

- Has declined to relocate with their position; or declined a transfer of function;

- Has received a decision notice of involuntary separation for misconduct or unacceptable performance; or

- Has previously received a separation incentive payment.

- Absent a waiver, an employee is ineligible for a buyout if he or she:

  - Is covered by a written service agreement resulting from Permanent Change of Station (PCS) or training, or is in receipt of a recruitment or relocation bonus; or

  - Is receiving a retention allowance; is occupying a position for which special salary rates are approved; or is occupying a position defined as "hard to fill."

  NOTE: Waivers may be granted on a case-by-case basis by the installation commander or activity head (or in the case of special salary rates, the appropriate DoD Component Assistant Secretary or equivalent), when that official determines the offer of separation pay is in the best interest of the offering installation. Such exceptions shall be documented in writing.

<u>Executive Employee Coverage</u>

- Members of the Senior Executive Service (SES) and equivalent employees (e.g., Senior Level (SL), Scientific and Technical (ST), Defense Intelligence Senior Executive Service (DISES), Defense Intelligence Senior Level (DISL)) those in payband positions above the GS-15 level, and NAF executives in payband NF-6 are not eligible for buyout or early retirement, unless the Principal Deputy Under Secretary of Defense (Personnel and Readiness)

(PDUSD(P&R)) approves the voluntary separation incentive to avoid RIF action or to restructure the workforce. Additionally, when the buyout is offered to avoid a RIF, the vacancy created by the buyout or another high-grade position (i.e., at the executive, GS-13, 14, or 15 level) must be abolished. (Approval requests concerning DISES and DISL employees must be coordinated with the Under Secretary of Defense for Intelligence (USD(I)) before being submitted for PDUSD(P&R) approval.)

. Submit requests for executive level buyouts and/or early retirement to the Office of the Deputy Under Secretary of Defense (Civilian Personnel Policy) for transmittal to the PDUSD(P&R). Restructuring action may result from a change in position title, occupational series, dominant position duties, or pay level. Request packages must contain all of the following information and documents at a minimum:

- A history, encompassing the last three years, of the executive member's presidential rank awards, performance awards or other bonuses unique to the executive level;
- Copy of current position description;
- Copy of the executive's resume.
- Copy of position description for the restructured position, if any;
- Concise justification outlining the reasons why the executive member does not meet the position/qualification requirements of the restructured position or any other vacancy, where appropriate; and
- Title, series and grade of position being abolished when accommodating a downsizing action.

Buyout Reemployment Restrictions

. When accepting a buyout, the following restrictions on reemployment within the Federal Government apply:

- Under 5 U.S.C. 9902(i)(6)(B) an employee receiving a separation incentive on or after March 30, 1994, who accepts employment with the Government of the United States (including employment in nonappropriated fund instrumentalities or with an agency of the United States through a personal services contract with the United States) within 5 years after the date of separation on which payment of the separation incentive is based, shall be required to repay the entire amount of the separation incentive (gross, before taxes and deductions) to the Department of Defense.

- A DoD employee who receives separation pay may not be reemployed by the Department of Defense in any capacity for a 12-month period beginning on the effective date of the employee's separation. The Secretary of Defense may approve exceptions on a case-by-case basis. (Waivers may also result from Presidential determination of the existence of a national emergency.)

- A DoD employee approved for payment of a separation incentive is prohibited from registering in the PPP. If registered in error, the employee must be immediately removed from the program.

Buyout Repayment Waivers

- When the employment is within the Department of Defense, the Secretary of Defense must approve waivers to the repayment provision. Waivers are justified only when the individual for whom the waiver is being sought is the only qualified applicant available for the position.

- Repayment waiver requests should be submitted through the Secretaries of the Military Departments or for the Fourth Estate, the Office of Secretary of Defense, Director of Administration and Management.

Buyout Procedures

- Employment Notification. Components shall issue a notice to each employee offered an incentive. The notice shall specify the time limit for accepting the offer and the eligibility and reemployment restrictions mentioned above.

- Processing Personnel Actions. Supporting personnel offices shall process personnel actions for separation incentives in accordance with standard procedures using the natures of action and authority codes established in the OPM Guide for Processing Personnel Actions. Supporting civilian human resources offices will use nature of action code, 825; nature of action, Separation Incentive; legal authority code, ZAA; and legal authority, 5 U.S.C. 9902(i). For employees receiving incentives, the effective date of the personnel action may be any date agreed to by the installation commander or activity head, or his or her designee, except employees also receiving early retirement because of RIF action must retire before the effective date of the RIF. Employees accepting an incentive must sign a VSIP agreement (see sample agreements at Appendix A) or the Request for Personnel Action, SF-52, confirming the voluntary nature of the action and indicating an understanding of the reemployment restrictions resulting from their acceptance of the incentive. The agreement must indicate the request for personnel action is irrevocable and the payment terms of the incentive (i.e., lump sum payment or installments).

- VSIP Payments. In addition to lump sum payment, two installment options are provided. Under the first option, employees may receive the buyout in bi-weekly payments in equal amounts at a rate selected by the employee. The bi-weekly installment payments may not extend beyond 1 year from the date of separation. Under the second option, employees shall receive one half of their buyout 6 months following their separation, and the remaining half 6 months later. Separation pay, if paid in installments, shall cease to be paid upon the recipient's acceptance of employment with the Federal Government in any capacity including commencement of work under a personal services contract.

.Funding: Policy

DoD activities may pay up to $25,000 for VSIP from appropriations, funds, or accounts available for such purposes to create a vacancy for another employee. The source of funds may include those from a Defense Working Capital Fund organization for its employees. For employees affected by base closure or realignment actions, the Defense Base Closure Account may be used for payment of separation incentives (Volume 2B, Section 070201.b of DoD 7000.14-R). DoD activities with questions concerning VSIP funding should contact their Component comptroller. (Components with questions concerning the funding of VSIP should contact the Office of the Under Secretary of Defense (Comptroller).)

Voluntary Separation Incentive (VSIP) Phase II

- Pursuant to 5 U.S.C. 9902(i), DoD authorizes cross-component, DoD-wide utilization of the VSIP within the continental United States. This authority implements VSIP Phase II, which is designed to expand the use of separation incentives beyond the boundaries of individual activities. This program authorizes managers at non-downsizing activities to use separation incentive payments to create vacancies for employees facing RIF separation at downsizing DoD activities who are registered in the DoD Priority Placement Program (PPP). VSIP Phase II utilizes the PPP to fill positions vacated by incentive recipients.

- While the vacancy created by the payment of the separation incentive must be used to place eligible Priority 1 PPP registrants, it may be restructured to a different series or grade for this purpose. This allows management to reshape the workforce, so that newly created positions match the activity's current skills requirements.

- The separation payment and any reimbursable travel and transportation costs shall be paid by the downsizing activity where the eligible PPP registrant was displaced.

- VSIP Phase II allows non-downsizing activities to offer some of its employees the benefit of separation pay and early retirement. VSIP Phase II provides the only method for offering these benefits to many employees who would otherwise be without any opportunity to participate.

SAMPLE FORM A-1
VOLUNTARY SEPARATION INCENTIVE PAY AGREEMENT
<u>LUMP SUM PAYMENT</u>

1. Title 5, United States Code §9902(i) authorizes the Secretary of Defense to establish a program to pay a Voluntary Separation Incentive Payment (VSIP) or buyout to eligible employees. This is to certify that my application for the buyout is voluntary and the effective date of my separation will be _______. I understand that my request for the personnel action and the payment terms are irrevocable.

2. I understand that an employee who receives a buyout on the basis of a separation occurring on or after March 30, 1994, and accepts employment with the Government of the United States (including employment in non-appropriated fund instrumentalities or with an agency of the United States through a personal services contract with the United States) within 5 years after the date of separation on which payment of the buyout is based, will be required, absent an authorized waiver, to repay the entire amount of the buyout (gross, before taxes and deductions) to the Federal agency that paid the buyout.

Name: ____
Last First MI

SSN: _______________________

Total Buyout Amount	Payment Terms	Initials
$	Lump Sum Payment at time of separation.	

This is to certify that I have been counseled by the Human Resources Office and agree to the conditions and terms of the buyout.

_________________________ Date
Employee Signature

__________________________ Date
HRO Representative Signature

"This information is subject to the Privacy Act of 1974, as amended."

SAMPLE FORM A-2
VOLUNTARY SEPARATION INCENTIVE PAY AGREEMENT
BI-WEEKLY INSTALLMENT PAYMENT

1. Title 5, United States Code §9902(i) authorizes the Secretary of Defense to establish a program to pay a Voluntary Separation Incentive Payment (VSIP) or buyout to eligible employees. This is to certify that my application for the buyout is voluntary and the effective date of my separation will be _____. I understand that my request for the personnel action and the payment terms are irrevocable.

2. I understand that an employee who receives a buyout on the basis of a separation occurring on or after March 30, 1994, and accepts employment with the Government of the United States (including employment in non-appropriated fund instrumentalities or with an agency of the United States through a personal services contract with the United States) within 5 years after the date of separation on which payment of the buyout is based, will be required, absent an authorized waiver, to repay the entire amount of the buyout (gross, before taxes and deductions) to the Federal agency that paid the buyout.

Name:_________________________________
Last First. MI

SSN:__________________

Total Buyout Amount	Payment Terms		Initials
$	Equal bi-weekly payments of $ until my buyout is paid in full		

This is to certify that I have been counseled by the Human Resources Office and agree to the conditions and terms of the buyout.

___________________________ Date
Employee Signature

__________________________ Date
HRO Representative Signature

"This information is subject to the Privacy Act of 1974, as amended."

SAMPLE FORM A-3
VOLUNTARY SEPARATION INCENTIVE PAYMENT AGREEMENT
6-MONTH INSTALLMENT PAYMENT

1. Title 5, United States Code §9902(i) authorizes the Secretary of Defense to establish a program to pay a Voluntary Separation Incentive Payment (VSIP) or buyout to eligible employees. This is to certify that my application for the buyout is voluntary and the effective date of my separation will be _______. I understand that my request for the personnel action and the payment terms are irrevocable.

2. I understand that an employee who receives a buyout on the basis of a separation occurring on or after March 30, 1994, and accepts employment with the Government of the United States (including employment in non-appropriated fund instrumentalities or with an agency of the United States through a personal services contract with the United States) within 5 years after the date of separation on which payment of the buyout is based, will be required, absent an authorized waiver, to repay the entire amount of the buyout (gross, before taxes and deductions) to the Federal agency that paid the buyout.

Name:_______________________________
_ Last First' MI
SSN:__________________

Total Buyout	Payment Terms	Initials
Amount		
$	Receive one half of my buyout in the amount of $, 6 months following the date of my separation and the second half in the amount of $ 6 months later.	

This is to certify that I have been counseled by the Human Resources Office and agree to the conditions and terms of the buyout.

____________________________ Date
Employee Signature

____________________________ Date
HRO Representative Signature

"This information is subject to the Privacy Act of 1974, as amended."