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The Honorable Neal Smith
Acting Chairman
Subcommittee on Labor, Health and
Human Services, Education, and
Related Agencies
Committee on Appropriations
House of Representatives

Dear Mr. Chairman:

This letter responds to House Report 103-553 wherein we were requested to review the Department of Education's policies and procedures in implementing the voluntary separation incentives, commonly called buyouts, authorized by the Federal Workforce Restructuring Act of 1994 (P.L. 103-226). The Act authorizes payments of up to $25,000 to encourage employees to leave federal service voluntarily, and requires a governmentwide reduction of full time equivalent positions (referred to as FTE offsets) equal to the number of buyouts accepted. We were asked to determine whether the buyouts met the requirements and purpose of the Act.

The Committee was concerned that the Department allowed about 390 employees--approximately 8 percent of its workforce--to take early retirement along with the buyout payment even though this staffing reduction far exceeded the reduction of 225 positions required of the Department in the President's personnel plan. The Committee noted that many of the vacancies created by these retirements would have to be backfilled by new hires negating much of the savings.

To meet the Committee's request, we reviewed pertinent documentation including the requirements of the Act, and interviewed responsible officials at the Department of Education and the Office of Management and Budget (OMB).

On July 27, 1994, we briefed the Subcommittee on the results of our work. This letter summarizes the information presented at that meeting.

RESULTS IN BRIEF

The Department of Education's use of the federal buyout authority during April and May 1994 complied with the Workforce Restructuring Act and OMB guidance. According to

Department and OMB officials, the Department consistently worked with OMB throughout the process and formally applied to OMB for an offset when the number of buyouts it desired exceeded the staffing level reduction required by the President's personnel plan.

OMB told us that they did not require the Department to reduce its authorized staffing level to account for the excess number of employees who took the buyouts because OMB was able to accommodate the Department's buyout efforts within governmentwide staffing reductions.

Department officials said they used the buyouts to restructure and diversify the Department's workforce by encouraging higher graded employees to voluntarily leave the government. This created vacancies for entry level hires in areas where workloads were increasing due to changing legislative priorities. Although the Department estimates buyout costs exceeded savings by about $1.7 million for fiscal year 1994, Department officials estimate a savings of about $7.4 million in fiscal year 1995. Department officials cited additional benefits of a streamlined organization with a younger and more diversified workforce.

BACKGROUND ON THE FEDERAL WORKFORCE RESTRUCTURING ACT OF 1994

The Federal Workforce Restructuring Act was passed to help federal agencies avoid or minimize involuntary separations due to restructuring and downsizing. A key provision of the law allows non-Defense executive branch agencies to offer buyouts to employees in any designated component, occupation, grade, series, and/or location who voluntarily agree to resign, retire, or take voluntary early retirement. Agencies may allow employees to take buyouts through March 31, 1995.

To receive a buyout, an employee must

- be serving under appointment without time limit;
- have 12 months of continuous service;
- not be a reemployed annuitant;
- not be eligible for disability retirement,
- agree to resign or retire voluntarily before April 1, 1995, unless the head of the agency agrees to an extension, but no later than March 31, 1997; and
- be in a position designated by the agency as eligible for buyouts.

The buyout is $25,000 or an amount equal to the employee's severance pay entitlement, whichever is less.[1] If any employee receiving the buyout is rehired by the federal government or performs services under a personal services contract with the government within 5 years of the date of separation, the employee must repay the full buyout to the agency that made the payment.

According to OPM data as of August 4, 1994, 22 agencies had reported paying buyouts to 14,760 employees. The administration expects that 60 to 100 thousand employees take buyouts before the authority expires in March 1995.

HOW THE BUYOUT REDUCTIONS ARE MONITORED

To ensure that savings are achieved and vacated positions are not simply refilled, the Federal Workforce Restructuring Act requires a governmentwide (excluding the Department of Defense and Central Intelligence Agency) reduction in full time equivalent (FTE) positions for each buyout given.[2] OMB has interpreted this to mean that, for each buyout that occurs in a fiscal year, the following year's FTE level should be reduced by at least one.

Because this FTE offset is to be implemented governmentwide (excluding the Department of Defense and Central Intelligence Agency), the Act designated OMB as the focal

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[1]Severance pay is computed on the basis of one week's salary for each year of the first 10 years of service and two week's salary for each year of service after 10 years (basic allowance). An allowance of 10 percent of the basic allowance is added for each year an employee is over age 40. The total severance pay an employee may receive cannot exceed one year's pay at the level received immediately prior to separation. While the amount of severance pay is dependent on the employee's pay, age, and length of service, a full year's salary in severance pay could be received by a 50 year old employee making $50,000 with around 18 years of service.

[2]An FTE is normally equivalent to one person working one year. According to OMB guidance, this generally equals 260 compensable days (2,080) hours, but excludes overtime and holidays.

point for monitoring the federal buyout effort to ensure that the required governmentwide reduction in FTEs was achieved.

HOW THE DEPARTMENT OF EDUCATION PLANNED ITS BUYOUT EFFORT

According to the Department of Education officials we interviewed, in the fall of 1993, when buyout legislation was still under consideration by Congress, the Department realized it could use buyouts as a workforce planning tool. The Department hoped to use buyouts to streamline its organization, improve productivity, increase workforce diversity, and restructure its workforce to better reflect new legislative priorities such as new requirements for managing the Direct Student Loan program.

In October 1993, the Department's Office of Human Resources and Administration surveyed employees to determine who was likely to apply for the buyouts and how much it would cost the agency.

RESULTS OF THE 1994 BUYOUT

The Department accepted buyout applications between April 29, 1994, and May 13, 1994, only from those employees who were eligible for retirement (about 30 percent of the workforce). By the end of the period, 392 employees had applied.

The Department of Education consistently worked with OMB throughout the process. While OMB initially approved a ceiling of 225 buyouts for the Department on May 23, 1994, in subsequent contacts with OMB officials, under the provisions of OMB Bulletin No. 94-04, the Department asked OMB to raise the ceiling to accommodate the 392 employees who had applied for buyouts. In accordance with the terms of the Bulletin, OMB agreed to approve the additional buyouts for the Department because they were offset by higher than expected workforce reductions at other agencies that were achieved without buyouts. According to OMB officials, because of those reductions, there was a governmentwide surplus of FTEs available as offsets which enabled OMB to accommodate the Department of Education's buyout levels, as well as the buyouts of all the other agencies that requested them, while ensuring that the statutory requirements were satisfied.

Department officials told us that because of the buyouts, the Department was able to release higher graded employees in areas where workloads were decreasing due to changing legislative priorities, improve productivity, and create vacancies in areas where workloads were increasing.

THE DEPARTMENT OF EDUCATION'S ESTIMATES OF THE COSTS AND SAVINGS OF THE BUYOUTS

The Department estimates the 1994 buyouts will cost the organization about $10.7 million while saving it about $9 million in fiscal year 1994. Department officials included in their cost computations the costs of salaries not paid from the time the employees left until the end of the fiscal year, the actual lump sum cash payment ($25,000 in almost all cases), and the required agency contribution of 9 percent to the federal retirement fund. Department officials told us they did not include in their cost figures the payout of employees' unused annual leave balances since this would have to be paid at some point, with or without a buyout.

Education officials included as savings the differences between the salaries of those higher graded employees who left and the lower graded entry level employees hired. Department officials estimated that, while the buyouts resulted in a net cost of $1.7 million in fiscal year 1994, fiscal year 1995 savings will exceed $7 million. We did not verify their data. Department officials we interviewed told us that the Department has realized other nonfinancial benefits of the 1994 buyout such as improved workforce diversity.

THE DEPARTMENT'S PLANS FOR FISCAL YEAR 1995

The Department of Education has notified OMB that it expects to offer 52 additional buyouts during fiscal year 1995. While this reflects the difference between the approved FTE levels for fiscal year 1995 and preliminary fiscal year 1996 figures, the Department told OMB that this number will be reexamined during the budget process. Department officials said that it is likely that any buyouts offered for fiscal year 1995 would be targeted to particular areas and limited to higher grades in order to assist in restructuring the Department's workforce.

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I trust this information has been helpful. Please call me on (202) 512-5074 if you have any questions.

Sincerely yours,

Nancy Kingsbury

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Issues

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