

**APPENDIX G****COPY****MEMORANDUM OF UNDERSTANDING BETWEEN THE VETERANS  
ADMINISTRATION AND THE DEPARTMENT OF DEFENSE****RETIRED PAY AND SURVIVOR ANNUITIES****ARTICLE I****INTRODUCTION**

1-1 **Purpose.** The Memorandum of Understanding (MOU) establishes administrative procedures and assigns responsibilities for the purpose of making timely, accurate, and complete payments of (or deductions from) military retired pay, survivor annuities and specified veterans' benefits. This guidance conforms with pertinent statutory authorities and Comptroller General decisions. The procedures improve coordination between the Veterans Administration (VA) and the Department of Defense (DoD), and minimize benefit overpayments. It supersedes the DoD/VA MOU of July 1969 with the change of September 1976 and the Memorandum of Record of March 11, 1974.

1-2 **General.** A retired member of the Armed Forces may receive VA compensation payments. To become eligible for VA payments, the member must waive retired pay, or retainer pay, in the amount payable by the VA. The individual's application for VA benefits on VA Form 21-526 or 21-526e constitutes an election of waiver in the absence of a written statement to the contrary. Or, the waiver may be accomplished by executing section I of VA Form 21-651. The Military Service shall accept the award action by the VA as certification. The VA shall provide the Military Service with documentation upon specific request. Legislative increases will be transmitted to the Military Service in the format contained in the attachment. A legislative increase refers to the rates of VA compensation, pension, or Dependency and Indemnity Compensation (DIC) specified in the periodic changes to 38 U.S.C. Chapters 11, 13, and 15.

**ARTICLE II****RESPONSIBILITIES**

2-1 **Responsibilities of VA.** The VA shall:

A. Transmit new and revised pay data in the attached format for retired personnel to the Military Services from the VA Data Processing Center (DPC) in Hines, Illinois, using a mutually agreed upon means. This data will be transmitted upon completion of each VA processing cycle, normally twice weekly.

B. Transmit the VA award change data to arrive at the Military Services no later than the 18th calendar day of the month in which the VA amount is to be entered as a reduction in the Military Service account. Accept the Military Service's effective date for VA transaction received by the Military Service after the 18th calendar day of the current month.

C. Ensure that all VA legislative rate transactions are furnished to the Military Service not later than 90 days following the date of the public law authorizing the legislative increase. This shall include those accounts reported by the Military Services to the VA Central Office (VACO) 45 days following the date of the public law authorizing the legislative increase.

D. Recoup any overpayments that result from a legislative increase, when the Military Service is notified of the rate change more than 90 days following the date of the public law authorizing the legislative increase.

E. Ensure that VA improved pension awards (authorized under Public Law 96-385; October 7, 1980) payable concurrently with retired pay are not included in the automated data exchange.

F. Take corrective action on all data input transactions originated by VA, that are rejected by the Military Services due to a validity test discrepancy.

G. Recoup overpayments resulting from VA initial, reopened, and increased awards paid prior to the actual reduction in the Military Service account, provided the Military Service made the reduction on a timely basis upon receipt of the VA award transaction.

H. Ensure the availability of resources to support the interchange of data.

I. Furnish the Military Services with replacement tapes within 48 hours after notification by the Military Services of defective tapes.

## 2-2 Responsibilities of DoD. The Military Services shall:

A. Process all data received from the VA DPC since the last retired pay file update.

B. Accept the VA effective date as the Military Service effective date of VA award or change provided the transaction is received on a timely basis, is identified as a valid legislative change, or constitutes a decrease in the VA award.

(1) If the effective date of a decreased VA award is earlier than the current activity month, the Military Service shall make the required adjustment.

(2) If the effective date of an initial award of VA benefits to a regular retired officer employed by the Federal Government is earlier than the current activity month, the Military Service will make the adjustment.

(3) If the effective date of an increased VA award that is not a legislative change is earlier than the current activity month, the Military Service shall effect the new amount in the current accounting month and notify the appropriate VA Regional Office (VARO) of the discrepancy. This same procedure will be followed when processing initial awards other than subsection 2-2B.(2), above.

C. Process initial, reopened and increased VA award transactions in the Military Service activity month in which the transaction is received. If the effective date is in a prior month, the Military Service will effect the change in the current activity month and notify the assigned VARO of the discrepancy.

D. Recoup on all transactions with valid effective dates received on or before the 18<sup>th</sup> calendar day of each month, but processed with a Military Service effective date of the following month.

E. Contact the assigned VARO for resolution of transactions which fail to pass the Military Services' edit and validation routines. The Military Services shall provide sufficient data to identify the transaction and explain why it was rejected.

F. Notify the VA field stations to update the VA records in all VA total waiver cases, when entitlement to retired or retainer pay is terminated or an inactive account (total waiver of retired or retainer pay) is reestablished because of an increase to a rate exceeding the VA compensation.

G. Furnish the assigned VARO with a certification of gross retired or retainer pay and effective dates for the previous two years upon receipt of a transaction that shows VA benefits exceed retired or retainer pay.

H. Ensure resources are available to support the data interchange.

I. Report to the VACO in VARO sequence those accounts not updated by the legislative increase not later than 45 days following the receipt of legislative increase data from the VA DPC.

J. Recoup any overpayments that may result from a legislative increase when notified by the VA within 90 days of the date of the public law authorizing the legislative increase.

K. Notify the VA point of contact within 24 hours of receipt of a defective tape from the VA.

**ARTICLE III****PROCEDURES****3-1 VA Improved Pension Payable Concurrently With Retired or Retainer Pay under Public Law 96-385 of October 7, 1980.****A. The VA shall:**

(1) Identify retiree accounts that no longer require a waiver of retired or retainer pay.

(2) Notify the Military Service of those retirees who elect to discontinue VA pension payments under prior law to receive an Improved Pension.

(3) Furnish the documentation required by the Military Service for adjusting or resuming retired or retainer pay.

**B. The Military Service shall:**

(1) Accept the VA effective date (not earlier than October 1, 1980) for payment of retired or retainer pay previously waived when the effective date of Improved Pension payment is a retroactive date.

(2) Adjust retired or retainer pay to reflect payment concurrently with VA Improved Pension.

(3) Furnish the requesting VARO a statement of gross retired or retainer pay rates required for determining the rate of Improved Pension payable.

**3-2 Fiduciary Cases.** When a retired member who waived retired pay in favor of VA compensation has become incompetent, the trustee or guardian may request withdrawal of a previously executed waiver and restoration of retired pay. The processing will be as follows:

**A.** When VA receives the restoration request first, it will terminate VA benefits and forward the request to the appropriate Military Service finance center with a cover letter furnishing the date of termination of VA benefits. The receiving Military Service will restore retired pay and return a copy of the letter to the VA, annotated with the amount of the restored pay and the effective date of the restoration. The effective date will be the first day of the month following the month of the termination of VA benefits.

**B.** When the Military Service finance center receives the restoration request first, it will forward the request to the assigned VARO with a cover letter indicating the monthly gross retired pay. Upon receipt by the VARO, the procedure above will be followed.

3-3 Guaranteed Minimum Income to Widows of Military Retirees.

A. On receipt of a minimum income annuity claim, the Military Service shall:

(1) Prepare a DD Form 1895, Request for Veterans Administration Pension and Annual Income Information, and forward an original and one copy with a copy of DD Form 1885, Survivor Benefit Plan - Minimum Income Claim, to the VARO servicing the widow's pension claim.

(2) Complete the upper right identification data block and lines B and C of the "Eligibility Determination" block, and indicate on line 3 of the DD Form 1895 the effective date of annuity payments, if entitlement is determined.

(3) Suspend the payment and promptly notify the assigned VARO of the death or remarriage of the annuitant, when prior VA notification has not been received.

(4) Initiate the payments. Or, when there is no entitlement, notify the claimant of the reason for ineligibility upon receipt of a complete and authenticated DD Form 1895 from the VA.

(5) Adjust, or discontinue, the Survivor Benefit Plan (SBP) annuity upon receipt of subsequent notification of the adjustment in the widow's annual income for VA purposes before SBP or upon receipt of a termination notice from the VA.

(6) Schedule reductions in future annuity payments and notify the annuitant when SBP overpayments are detected.

(7) Request authorization from the annuitant for collection from future VA pension payments, when DoD payments are not available for such offset.

B. The VARO shall:

(1) Confirm the claimant's entitlement to a VA pension, complete items 1 and 2, and lines D and E of the "Eligibility Determination" block, authenticate, and return the original DD Form 1895 to the appropriate Military Service finance center.

(2) Retain a copy of the DD Forms 1885 and 1895.

(3) Notify the appropriate Military Service on subsequent adjustments to the widow's annual income for VA purposes before SBP or termination of the widow's pension due to death, remarriage, or other reason. The notification shall include the effective date of the VA action, reason and type of action (i.e., pension termination, adjustment, etc.) and the adjusted VA payment.

(4) Effect the collection of SBP overpayments in monthly amount that the annuitant agrees to and forward the collections with identifying listings to the appropriate Military Services.

3-4 DIC Award to Surviving Spouse.

A. Upon death of the retiree who has an eligible spouse beneficiary, the Military Service shall:

(1) Notify the VARO of the retiree's death and furnish the amount of SBP annuity payable.

(2) Request the amount and the effective date of DIC award on behalf of the widow(er) only.

(3) Inform the retiree's annuitant that the SBP annuity will be paid in the full amount due. But, if DIC is awarded, the DIC payment shall be reduced by the amount needed to offset any intervening SBP overpayment. Obtain a statement signed by the annuitant agreeing with the conditions for SBP payment and forward it to VA.

(4) Pay the full SBP annuity amount. If DIC payments are made, pay only the amount by which the SBP entitlement exceeds the DIC award.

(5) Furnish the VARO with a statement of the amount (if any) to be recouped from DIC with the annuitant's signed authorization for withholding to satisfy an existing SBP overpayment created by the DIC and SBP overlap. If no recoupment is required, a negative statement will be furnished to the VARO.

(6) Enter the current, basic DIC award amount as a reduction to the SBP annuity.

B. The VA shall:

(1) Research files to associate SBP notices with pertinent files regarding the annuitant.

(2) Upon receipt of the SBP award, query the VA Beneficiary Identification and Records Locator Subsystem (BIRLS) to determine whether there is a current VA claim file. When no current file exists, a VA claim file will be established, containing sufficient information to alert the VARO to a DIC-SBP payment overlap should DIC be awarded later to the annuitant.

(3) Access SBP payment files on the award of DIC payments; and when an overlap exists, offset the initial DIC payment by the amount necessary to recoup any SBP overpayment.

(4) Contact the appropriate Military Service to request the amount of SBP payment to be withheld from the DIC award and furnish the DIC effective date and amount awarded.

(5) Forward a check in the amount of the recoupment with the information necessary for adjusting the SBP payments to the Military Service.

(6) Furnish the DIC rate changes, or late awards for basic DIC rates only, to the Military Service.

**3-5 SBP Premium Payments by Retirees Receiving Emergency Officers Retired List (EORL) or Pension/ Compensation Payments.**

A. The Military Services shall:

(1) Forward retiree requests for payments of SBP premiums by VA deductions from EORL or compensation payments to the servicing VARO. A retiree's request must provide for collection of the current SBP premium payable and future adjustments in the amount due to cost-of-living or other changes requiring a premium adjustment. Requests will not require retroactive reductions by the VA without prior agreement.

(2) Notify VA of any necessary adjustment to the premium amount.

B. The VA shall:

(1) Deduct premium the first of the month specified in the election.

(2) Process the requested deduction and forward monthly checks and listing (identifying retirees by name, social security number, and the amount of deduction) to the appropriate Military Service.

**3-6 File Development and Maintenance.**

A. DoD standard data elements and codes, as published in DoD Manual 5000.12-M, will be used, when available and applicable.

B. Comparable data edit and validation routines will be maintained by the VA and the Military Services.

ARTICLE IV

EFFECTIVE DATE, MODIFICATION, AND TERMINATION

4-1 Duration. The memorandum becomes effective on the date of the last signature. Either party may propose amendments to this MOU, but both must agree for amendments to take effect. Either party may terminate the MOU upon 30 days written notice to the other party.

/S/ Robert W. Helm

Robert W. Helm

Assistant Secretary of Defense

(Comptroller)

/S/ Harry W. Walters

ADMINISTRATOR OF VETERANS AFFAIRS

Jun 13, 1985

## ATTACHMENT

DATA RECORD FORMAT

<u>Field Descriptions</u>	<u>Positions</u>
Blanks.....	1-3
Name of Person Entitled.....	4-7
Blanks.....	8-10
Veteran's SSN.....	11-19
Blank .....	20
Branch of Service.....	21
Veteran's SSN Verification Ind.....	22
File Number .....	23-31
Payee Number .....	32-33
Station Number .....	34-35
Transaction Code .....	36-37
Processing Month .....	38-39
Processing Cycle.....	40
Master Record Type.....	41
Blank .....	42
Amount (prior).....	43-48
Effective Date (prior).....	49-54
Amount 1 .....	55-60
Effective Date 1 .....	61-66
Reason Code 1 .....	67-68
Blanks.....	69-86
Date of Death .....	87-92
Active Reservist Indicator .....	93
Special Law Code 06-08.....	94-95
Competency Code.....	96
Special Law 01.....	97-98
Withholding Indicator.....	99
Pay Grade.....	100-101
Payee's SSN.....	102-110
Payee's SSN Verification Ind.....	111
Veteran's Name .....	112-115
Blanks.....	116-120