



# Frequently Asked Questions (FAQs) on OPM's Deferred Resignation Program

**Please Note:** This publication is for informational purposes only and does not guarantee any particular result in a specific case. The information provided is not, nor is it intended to be, a substitute for individualized legal or professional advice.

## 1. What is the Deferred Resignation Program?

The Deferred Resignation Program (“Program”) was introduced by an email sent to federal employees on January 28, 2025. Preceded by threats to modify and downsize the federal workforce, the Program purports to allow federal employees to submit a resignation letter that will become effective on September 30, 2025. In exchange, the Program claims that employees will be exempt from “Return to Office” requirements and will maintain their current compensation and benefits until the effective date of their resignation.

Employees should not take the Program at face value. The Program documentation, including the introductory email, an associated guidance memorandum issued by the Office of Personnel Management (“OPM”) on January 28, 2025, and OPM-issued FAQs are riddled with inconsistencies and uncertainties. It is also unclear whether OPM has the legal authority to support the Program or its alleged benefits, and the eligibility criteria are vague

## 2. Is the Program a buyout?

No, the Program is not buyout nor is it a Voluntary Separation Incentive Payment (“VISIP”) program. Instead, it purports to offer employees the ability to submit a deferred resignation and claims employees that do so will continue to receive pay, while still possibly working, until September 30, 2025.

Notably, however, the Program contains no guarantee that an employee’s resignation will be accepted. Nor does the Program guarantee that an employee’s whose resignation is accepted will receive the benefits that the Program purports to offer.

## 3. If an employee chooses to accept the program, are they required to work during the deferred resignation period?

They may be. OPM’s statements are conflicting on this point. According to the OPM email and letter, employees will not be required to work in person but may be assigned remote work duties. The OPM FAQ page also suggests that employees will not be required to work except in “rare cases,” without defining what constitutes “rare cases.” At the same time, the FAQs describe the deferred resignation period as a “nice vacation” and the Program states that employees may be placed on “paid administrative leave.”

## 4. Can an employee take another job during the deferred resignation period?

The FAQ states that the resignation letter does not explicitly prohibit outside employment. However, other existing policies, such as agency-specific regulations requiring prior authorization for outside work, are likely to apply.

## 5. Are all federal employees eligible for the program?

No. Employees in positions related to immigration enforcement and national security, as well as those in any positions specifically excluded by their employing agency, are not eligible. USPS employees and military personnel are also excluded. There is no guidance on how employees can confirm their eligibility or if their agency has specific exclusions.

## **6. Will employees who opt-in be protected from termination before their resignation date?**

Nothing in the Program documentation purports to prohibit the termination or separation of an employee who accepts deferred resignation. While the OPM email suggests that employees will maintain their compensation and benefits until the effective date of their resignation date, it does not explicitly state that employees are shielded from layoffs or other adverse actions before September 30, 2025. There is no guarantee that employees opting in to the Program will not be targeted for such actions.

The Program also does not indicate what may occur in the event of a lapse in congressional appropriations. At present, many agencies of the federal government are only funded through March 14, 2025.

## **7. What happens if an agency requires an employee to continue working despite OPM's FAQ stating that continued work should be rare?**

While OPM's FAQ states that work will only be required in "rare cases," the program's details vary across the different OPM documents. If an agency insists on continued work, employees may not have a clear administrative remedy, as the enforceability of the promises and statements in OPM's FAQ is uncertain.

## **8. What legal recourse do employees have if the government does not honor the terms of deferred resignation?**

It is unclear what recourse, if any, employees might have if the government fails to honor the terms of their deferred resignation. There is no certainty that the statements made in the OPM Program documents will be legally enforceable. Even if the email and FAQ page are interpreted as an implied contract or offer, there is no guarantee that such a claim would be enforceable. For example, while each case will be fact-specific, resignation is generally considered to be a voluntary action. It is therefore unclear whether violations of the policy would be appealable to the Merit Systems Protection Board, through the grievance process, or any other forum.

## **9. How can employees ensure the administration will follow through on the Program?**

Given the inconsistencies between Program's various documents issued by OPM, as well as the ambiguous and conflicting language regarding work obligations and exclusions, there is no guarantee that the claims in the Program will be honored by the Government. The Program may also face legal challenges that could alter the terms of all or portions of the Program. Employees who opt-in to the Program will be at the mercy of the administrators of the Program, whose claims contain inconsistencies and lack stated legal underpinning.

## **10. Is there an assurance that the promised continued salary will be funded?**

No. Nothing in the OPM documentation contains such an assurance. Moreover, because current appropriations for most civilian agencies are set to expire March 14, 2025, it is not guaranteed that agencies affected by the current appropriations bill will continue to have adequate funding for the promised salary beyond the bill's expiration.

## **11. What actions can Locals and Councils take to protect bargaining unit employees from the Program?**

Locals and councils may:

- Consider filing requests for information under 5 U.S.C. § 7114(b)(4).
- Consider filing a demand to bargain over the Program.
- Consider grievances alleging the Program violates terms of their collective bargaining agreement or regulations (e.g. regulations concerning administrative leave).
- Locals and councils may also have a basis for a grievance or unfair labor practice charge alleging, among other things, a bypass of the Union with respect to communications about the Program directly to employees.

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