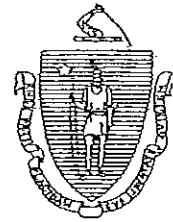




# FRAMINGHAM HOUSING AUTHORITY

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## FRAMINGHAM HOUSING AUTHORITY OBRA POLICY

Approved: February 18, 2016

Employees of the Framingham Housing Authority (FHA) that are part-time, seasonal or temporary employees, are eligible to participate in the Omnibus Budget Reconciliation Act of 1990 (OBRA). The regulation mandates that public employees who are not eligible to be part of the state retirement system participate in an alternate retirement plan after July 1, 1991. The FHA is covered under the Massachusetts State Retirement System. Employees of the FHA are not covered under the Social Security System. The SMART Plan is an alternative to Social Security as permitted by the Omnibus Budget Reconciliation Act of 1990 (OBRA) passed by the U.S. Congress which requires that beginning July 1, 1991, public employees not eligible to participate in a state retirement system be placed in an alternative plan that meets all the retirement system requirements. Staff that are part-time, seasonal or temporary employees of the FHA, are eligible to participate in OBRA. The employee must contribute 7.5% of gross income to the SMART Plan. The SMART Plan is a plan that meets the alternative retirement plan requirements. The contribution is deducted on a pretax basis, reducing taxable income. All mandatory contributions to the SMART Plan are automatically invested in the SMART Capital Preservation Fund. Upon severance from employment, the former employee may elect to receive the distribution. Some employees exempt from OBRA:

- Individuals hired on a temporary basis in case of fire, storm, snow, earthquake, flood of other similar emergency
- Persons who have retired from the Commonwealth and are receiving compensation from the Commonwealth for services performed after retirement
- Employees of the Commonwealth who are over age 70, who are inactive members of the State Retirement System and who have elected not to continue to make retirement contributions
- Employees of the Commonwealth who are members of the State Retirement System and also work part-time on contract

Board members, for IRS purposes, are considered to be employees and not independent contractors and their payment must be reported on a W2 because self-employment tax is not applicable to their services. The commissioners perform board member duties and are presumed to be employees for tax purposes. IRS Publication 963, Chapter 4, states that all officials elected or appointed to their positions after March 31, 1986 are subject to Medicare withholding. Because the IRS sees board members as employees for tax purposes, OBRA must be withheld unless the board member is exempt.



EQUAL HOUSING OPPORTUNITY

**Statement Concerning Your Employment in a Job  
Not Covered by Social Security**

Employee Name \_\_\_\_\_ Employee ID# \_\_\_\_\_

Employer Name \_\_\_\_\_ Employer ID# \_\_\_\_\_

Your earnings from this job are not covered under Social Security. When you retire, or if you become disabled, you may receive a pension based on earnings from this job. If you do, and you are also entitled to a benefit from Social Security based on either your own work or the work of your husband or wife, or former husband or wife, your pension may affect the amount of the Social Security benefit you receive. Your Medicare benefits, however, will not be affected. Under the Social Security law, there are two ways your Social Security benefit amount may be affected.

**Windfall Elimination Provision**

Under the Windfall Elimination Provision, your Social Security retirement or disability benefit is figured using a modified formula when you are also entitled to a pension from a job where you did not pay Social Security tax. As a result, you will receive a lower Social Security benefit than if you were not entitled to a pension from this job. For example, if you are age 62 in 2005, the maximum monthly reduction in your Social Security benefit as a result of this provision is \$313.50. This amount is updated annually. This provision reduces, but does not totally eliminate, your Social Security benefit. For additional information, please refer to Social Security Publication, "Windfall Elimination Provision."

**Government Pension Offset Provision**

Under the Government Pension Offset Provision, any Social Security spouse or widow(er) benefit to which you become entitled will be offset if you also receive a Federal, State or local government pension based on work where you did not pay Social Security tax. The offset reduces the amount of your Social Security spouse or widow(er) benefit by two-thirds of the amount of your pension.

For example, if you get a monthly pension of \$600 based on earnings that are not covered under Social Security, two-thirds of that amount, \$400, is used to offset your Social Security spouse or widow(er) benefit. If you are eligible for a \$500 widow(er) benefit, you will receive \$100 per month from Social Security (\$500 - \$400=\$100). Even if your pension is high enough to totally offset your spouse or widow(er) Social Security benefit, you are still eligible for Medicare at age 65. For additional information, please refer to Social Security Publication, "Government Pension Offset."

**For More Information**

Social Security publications and additional information, including information about exceptions to each provision, are available at [www.socialsecurity.gov](http://www.socialsecurity.gov). You may also call toll free 1-800-772-1213, or for the deaf or hard of hearing call the TTY number 1-800-325-0778, or contact your local Social Security office.

I certify that I have received Form SSA-1945 that contains information about the possible effects of the Windfall Elimination Provision and the Government Pension Offset Provision on my potential future Social Security benefits.

Signature of Employee \_\_\_\_\_ Date \_\_\_\_\_

**Information about Social Security Form SSA-1945**  
**Statement Concerning Your Employment in a Job Not Covered by Social Security**

New legislation [Section 419(c) of Public Law 108-203, the Social Security Protection Act of 2004] requires State and local government employers to provide a statement to employees hired January 1, 2005 or later in a job not covered under Social Security. The statement explains how a pension from that job could affect future Social Security benefits to which they may become entitled.

Form SSA-1945, *Statement Concerning Your Employment in a Job Not Covered by Social Security*, is the document that employers should use to meet the requirements of the law. The SSA-1945 explains the potential effects of two provisions in the Social Security law for workers who also receive a pension based on their work in a job not covered by Social Security. The Windfall Elimination Provision can affect the amount of a worker's Social Security retirement or disability benefit. The Government Pension Offset Provision can affect a Social Security benefit received as a spouse or an ex-spouse.

Employers must:

- Give the statement to the employee prior to the start of employment;
- Get the employee's signature on the form; and
- Submit a copy of the signed form to the pension paying agency.

Social Security will not be setting any additional guidelines for the use of this form.

Copies of the SSA-1945 are available online at the Social Security website, [www.socialsecurity.gov/form1945](http://www.socialsecurity.gov/form1945). Paper copies can be requested by email at [oplmsoswmrqct.orders@ssa.gov](mailto:oplmsoswmrqct.orders@ssa.gov) or by fax at 410-965-2037. The request must include the name, complete address and telephone number of the employer. Forms will not be sent to a post office box. Also, if appropriate, include the name of the person to whom the forms are to be delivered. The forms are available in packages of 25. Please refer to Inventory Control Number (ICN) 276950 when ordering.