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Date

**DEPARTMENT OF COMMERCE
OFFICE OF HUMAN RESOURCES MANAGEMENT**

**HUMAN REOURCES (HR) BULLETIN #081, FY 09,
(5 U.S.C. §§ 5753 and 5754)**

SUBJECT: Recruitment, Relocation, and Retention Incentive Plan

EFFECTIVE DATE: December 17, 2007, and January 2, 2008

EXPIRATION DATE: Effective until canceled or superseded

REVISES/SUPERCEDES: Revises Office of Personnel Management (OPM) interim regulations issued on May 13, 2005. Amends 5 U.S.C. §§ 5753 and 5754. Supercedes the Department's Pay Handbook, Part 1, General Pay, Recruitment and Relocation Bonuses and Retention Allowances, available on the OHRM's HR Practitioners website at: http://hr.commerce.gov/Practitioners/CompensationAndLeave/DEV01_006197

BACKGROUND: On May 13, 2005, OPM published interim regulations implementing section 101 of the Federal Workforce Flexibility Act of 2004 (Public Law 108-411). Section 101 provided agencies with additional flexibilities for recruitment, retention, and relocation incentives to strategically address human capital needs and build and maintain a high-performing work force with essential skills and competencies. OPM issued final regulations (November 16, 2007) specifically responding to agency comments on the interim regulations for retention incentives which were effective on December 17, 2007. OPM subsequently issued *additional* final regulations (December 3, 2007) addressing the remaining comments received on the interim recruitment, relocation, and retention incentives which were effective on January 2, 2008.

PURPOSE: In accordance with OPM's final regulations, agencies are required to establish a recruitment, relocation, and retention incentives plan prior to paying any such incentive. The purpose of this HR Bulletin is to transmit the Department of Commerce (DOC) Recruitment, Relocation, and Retention Incentives Plan incorporating all final regulations on the incentives.

COVERAGE: The provisions of the DOC's Recruitment, Relocation, and Retention Incentives Plan apply to all bureaus of the Department.

POLICY: See attached.

REFERENCES: 5 U.S.C. §§ 5753 and 5754; Questions and Answers on Recruitment, Relocation, and Retention Incentives; Federal Register (FR), Volume 72, No. 221 (dated November 16, 2007); and FR, Volume 72, No. 231 (dated December 3, 2007).

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**DEPARTMENT OF COMMERCE
RECRUITMENT, RETENTION, AND RELOCATION INCENTIVES PLAN**

Recruitment, retention, and relocation incentives are used to strategically address human capital needs and build and maintain a high-performing work force with essential skills and competencies. The following is the Department of Commerce (DOC) Recruitment, Relocation, and Retention Incentives Plan. The Plan is organized to provide policy applicable to all incentives (unless otherwise indicated) followed by a section on each individual incentive and criteria specific to that incentive. The provisions of this Plan apply uniformly across the Department including employees under the Commerce Alternative Personnel System (CAPS). The Plan includes the designation of officials with the authority to review and approve payment of the incentives, including the circumstances under which an official has the authority to approve payment without higher-level approval and waive the repayment of a recruitment or relocation incentive. This Plan also identifies:

- Categories of employees eligible for and prohibited from receiving recruitment, retention, or relocation incentives;
- Required documentation for determining that a position is likely to be difficult to fill;
- Requirements for determining the amount of an incentive;
- The types of payment methods that may be authorized;
- The requirements governing service agreements (including the criteria for determining the length of a service period, the conditions for terminating a service agreement, and the obligations of the bureau/operating unit and the employee if a service agreement is terminated);
- Documentation and recordkeeping requirements; and
- Annual reporting requirements.

References

- Title 5 United States Code (U.S.C.) §§ 5753 and 5754;
- Title 5 Code of Federal Regulations (CFR) Part 575; and
- Office of Personnel Management (OPM) Recruitment, Relocation, and Retention Question and Answers.

THE FOLLOWING APPLIES TO ALL INCENTIVE AUTHORITIES UNLESS OTHERWISE INDICATED:

Approving Officials

Heads of operating units are delegated the authority to make the determination to pay a recruitment, relocation, and retention incentive (including individual retention incentives up to 25% and occupational group retention incentives up to 10%) for employees in their organizations. In accordance with Departmental Administrative Order 202-250, Delegations of

Authority for Human Resources Management, this authority may be redelegated to designated appointing officials. However, each determination to pay an incentive shall be reviewed and approved at a higher level than the official who made the original determination. If there is no official at a higher level in the operating unit than the official who made the initial determination, then the Chief Financial Officer/Assistance Secretary for Administration (CFO/ASA) is the approving official. In those cases in which the CFO/ASA made the initial determination, the Deputy Secretary is the approving official.

Approval for recruitment, relocation, and retention incentives for employees under the CAPS is governed by the CAPS Board, unless redelegated.

Who is Eligible

The following types of employees are *eligible* to receive a recruitment, relocation, or retention incentive:

- General Schedule (GS);
- Commerce Alternative Personnel System or CAPS and National Institute of Standards and Technology's Alternative Personnel Management System or APMS (ZP, ZP, ZT, ZS);
- Executive Schedule (EX);
- Senior Executive Service (SES);
- Senior Level (SL) or Scientific or Professional (ST) positions;
- Law Enforcement Officers (LEO);
- Employees in prevailing rate positions (WG, WL, and WS); and
- Any other position in a category for which payment of an incentive has been approved by the OPM. This includes NOAA's Wage Marine employees (authorized on 10/23/1992) and Census Bureau AD and GG employees (authorized on 10/05/1998).

A recruitment incentive may be authorized for the following categories of employees as long as the indicated criteria are met:

- Temporary, seasonal, or part-time employees provided the minimum period of employment required by Title 5 CFR 575.110(a) for a service agreement is met; and
- Newly appointed employees if it has been determined that the position is critical to the mission of the organization, and in the absence of the incentive, it would be difficult to fill the position with a highly qualified employee. For the purpose of paying a recruitment incentive, the definition of *newly appointed* is found in 5 CFR 575.102.

A **recruitment incentive** may be paid to an individual who has not yet entered on duty if the individual has accepted a written offer of employment and has signed a service agreement as outlined in 5 CFR 575.109(d).

Who is Ineligible

The following types of employees are *ineligible* from receiving recruitment, relocation, or retention incentives:

- Presidential *appointees*;
- *Noncareer* SES;
- Those in positions excepted from the competitive service by reason of its confidential, policy-determining, policy-making, or policy-advocating character;
- Agency heads; and
- Those expected to receive an appointment as an agency head

A career SES member may *not* elect to retain coverage under the recruitment or relocation incentive authority when he/she accepts a Presidential appointment under 5 CFR Part 317, subpart H.

Performance Appraisal Standards

Retention and relocation incentives may only be paid when the employee's most recent performance appraisal is at least "Fully Successful" or equivalent. Under the 5-level system, a rating of Level 3 or higher equates to "Fully Successful." Under the CAPS, a rating of Eligible equates to "Fully Successful." Under the APMS, a performance appraisal rating of "Contributor" equates to a "Fully Successful."

Payment Methods

A **recruitment or relocation** incentive may be paid in a number of ways, including:

- As an initial lump-sum payment at the start of the service period or before the start of the service period, as authorized by 5 CFR 575.109(d);
- In equal or variable dollar amounts throughout the service period consistent with biweekly pay periods. Payments continue during periods of paid leave or non-pay status of less than 30 days, and for employees on military leave-without-pay (LWOP). The period of military LWOP is creditable towards completion of the required service period. However, payments must be discontinued for periods of LWOP of 30 days or more, during suspensions, or for employees on absence without leave;
- A final lump-sum payment upon completion of the service period; and/or
- A combination of the above.

A **retention incentive** may be paid in one of two ways:

- In equal dollar amounts at the full retention incentive percentage rate or at a reduced rate with the excess deferred for payment at the end of the full service period stated in the

Service Agreement consistent with the biweekly pay periods. Payments must be discontinued when an employee is in non-pay status for the entire pay period since there is no base pay on which to base and compute the payment. However, if an employee is in a non-pay status for part of the pay period, the payment must be prorated based on the amount of basic pay earned; or

- As a single lump-sum payment after completion of the full service period required by a Service Agreement.

A retention incentive may not be paid as an initial lump-sum payment at the start of a service period or in advance of fulfilling the service period for which the retention incentive is received.

Rate of Basic Pay

Recruitment, retention, and relocation incentives are *not* a part of an employee's rate of basic pay for any purpose and are not included in lump-sum annual leave payments. For the purpose of calculating recruitment, retention, or relocation incentives, an employee's rate of basic pay includes:

- Special rate under 5 CFR Part 530, subpart C; or
- Locality payment under 5 CFR Part 531, subpart F, or similar payment under other legal authority. All additional pay of any other kind is excluded.
- For hourly rate employees who do not have a scheduled annual rate of pay, the maximum recruitment or relocation amount is determined by multiplying the applicable hourly rate in effect at the beginning of the service period by 2,087 hours.

Biweekly Premium Pay and Annual Pay Limitations

Recruitment, retention, and relocation incentives are not subject to the biweekly or annual premium pay limitations since they are not considered premium pay.

Aggregate Pay Limitation

Recruitment, retention, and relocation incentives are subject to the aggregate limitation on pay under 5 CFR Part 530, and may not be authorized (even on a deferred basis) if it is estimated that when added to the employee's likely aggregate pay, it would cause the aggregate compensation actually received during the calendar year to exceed the rate paid to Level I of the Executive Schedule (EX) at the end of the year. Operating units should also regularly review the incentive authorizations to ensure that an additional pay check (in years where there are 27 pay periods) or an increase in a nondiscretionary payment does not cause the employee's estimated aggregate compensation to exceed the EX level I pay cap.

A recruitment or retention incentive is considered a non-discretionary payment and should be deferred prior to deferral of any discretionary payments.

Multiple Incentives

The simultaneous paying of multiple incentives or concurrent recruitment, relocation, and retention incentives is generally not allowed. Specifically, bureau/operating units may not commence a:

- *Recruitment incentive service agreement* during a period of employment established under a service agreement required for a relocation incentive or a previously authorized retention incentive;
- *Relocation incentive service agreement* during a period of employment established under any service agreement required for a recruitment incentive, or for a previously authorized relocation incentive; or
- *Retention incentive service agreement* during a period of employment established under any service agreement required for payment of a recruitment incentive or a relocation incentive or for a previously authorized retention incentive.

The only exception is that a *relocation incentive service agreement* may be started during a period of employment established under a service agreement for a previously authorized retention incentive resulting in two service agreements running concurrently.

Service Agreements

Before receiving a recruitment, relocation, or retention incentive, an employee must sign a written Service Agreement which must include:

- Service Period - A specified period of employment with the offering bureau/operating unit or successor bureau/operating unit in the event of a transfer of function.
 - a. The service period for a recruitment incentive may not be less than six months or more than four years.
 - b. The service period for a relocation incentive may not exceed four years.
 - c. There is no required minimum period of employment for a retention incentive.

To determine the number of years in a service period, divide the total number of calendar days in the service period by 365 and round the result to two decimal places. For example, a service period covering 39 biweekly pay periods equals 546 days, and 546 days divided by 365 days equals 1.50 years. A recruitment or relocation incentive service period must begin on the first day of a pay period and end on the last day of a pay period and may not exceed 4 years.

- Commencement and Termination Dates - A recruitment incentive starts upon commencement of service with the bureau/operating unit unless the bureau/operating unit has elected to pay a recruitment incentive prior to an employee entering on duty as outlined

in 5 CFR 575.109(d). A relocation incentive starts upon commencement of service at the new duty station. In all cases, an employee must establish a residence in the new geographic area before the agency may pay a relocation incentive to the employee. The service period commencement date must begin on the first day of the first pay period beginning on or after the start of service in the bureau or at the new duty station. A retention incentive must begin on the first day of a pay period and end on the last day of a pay period. A start date for a recruitment and relocation incentive may be delayed until the employee completes an initial period of training or a required probationary period. However, the Service Agreement must specify that the bureau/operating unit is not obligated to pay any portion of the incentive if the employee does not successfully complete the training or probationary period prior to the start of the service period. The service periods for recruitment and relocation incentives must end on the last day of a pay period.

- Length of the Service Period - The length of service for a recruitment or relocation incentive may not be less than six months or greater than four years. The criteria for determining the length of service must be included in the Service Agreement.
- Incentive Amount – The total amount of the incentive, the method of payment, the timing of payments (if in installments), and the non-pay and/or leave status conditions under which payments may be continued or discontinued must be specified.
- Discretionary and Mandatory Conditions for Termination - The conditions under which a Service Agreement will be terminated must be specified and the employee must be notified in writing when an incentive Service Agreement is terminated. (See OPM table, Termination of Service Agreements, below, to see the effects of terminating a Service Agreement and examples of calculating incentive payments upon termination of Service Agreements.) There are two conditions for termination:

Mandatory Terminations. A Service Agreement must be terminated if an employee is: (1) demoted; (2) separated for cause (i.e., for unacceptable performance or conduct); (3) receives a rating of record lower than “Fully Successful” or equivalent, Level 3 under a 5-level performance management system, Eligible under CAPS, or Contributor under the APMS during the service period; or (4) fails to fulfill the terms of the Service Agreement. Under this type of termination, the employee must repay any portion of the incentive attributable to uncompleted service unless waived under the repayment waiver authority. Employees are entitled to retain all incentive payments attributable to completed service. However, if an employee is separated resulting from material false or inaccurate statements, deception, fraud in examination or appointment, or as a result of failing to meet employment qualifications, all recruitment incentive payments received under the Service Agreement must be repaid to the bureau/operating unit. The employee must also repay any incentive payments attributable to uncompleted service and the bureau/operating unit is not required to pay outstanding incentive payments attributable to uncompleted service unless specified in the Service Agreement. If the employee fails to reimburse the bureau/operating unit for incentive payments received for uncompleted service, the

bureau/operating unit is required to recover the amounts owed in accordance with established debt collection procedures.

Discretionary Terminations. A Service Agreement *may* be terminated based on the management needs of the bureau/operating unit. Examples of discretionary terminations include, but are not limited to, reductions in force, insufficient funds to continue planned payments, or the need to reassign an employee to a position with different terms of employment. When a termination is based on management needs, the employee is entitled to all payments attributable to completed service and to retain any portion of a payment received or owed that is attributable to uncompleted service.

- Other Terms and Conditions – Other terms and conditions may be included in the Service Agreement that, if violated, will result in the termination of the agreement. Examples include, but are not limited to, work schedule, type of position, the duties the employee is expected to perform, etc.

Waiver Requests

An incentive proposed for authorization above the usual percentage (25% for individuals or 10% for a retention incentive for a group or category of employees) requires prior waiver approval from the Departmental Director for Human Resources Management (OHRM) and OPM. If approved, the OHRM will submit the waiver request to OPM to obtain the required waiver authorization. Waiver requests that do not provide the required documentation or justifications will be returned to the requesting bureau or operating unit for additional information. Waivers may be authorized for:

- Individual retention incentives of more than 25%;
- Group retention incentives of more than 10%;
- Individual recruitment incentives of more than 25% up to 50% (based on a critical agency need); and
- Relocation incentives of more than 25% up to 50% (based on a critical agency need).

Waiver requests must provide specific documentation to justify the increase as follows:

For Relocation or Recruitment Incentives –

- A description of the critical agency need;
- The documentation for the written determination to authorize a recruitment incentive under 5 CFR 575.108 or a relocation incentive under 5 CFR 575.208;
- The proposed incentive payment amount and justification;
- The proposed effective date and payment method; and
- The service period required, and any other information pertinent to the case at hand (see 5 CFR 575.109(c)(2) and 575.209(c)(2)).

For Retention Incentives –

- A description of the employee's work requirements and responsibilities or, if requesting a group retention incentive, a description of the group or category of employees and the number of employees to be covered by the proposed retention incentive;
- A description of the critical agency need;
- The written documentation required by 5 CFR 575.308;
- The proposed retention incentive percentage rate and a justification;
- The proposed effective date and payment method;
- The service period required; and
- Any other information relevant to the waiver request.

Debt Recovery

When an employee is required to repay a portion of a recruitment or relocation incentive and fails to reimburse the bureau/operating unit for the full amount owed, the amount outstanding must be recovered from the employee via salary offset (see 5 U.S.C. § 5514 and 5 CFR Part 550, subpart K) or through the appropriate provisions governing Federal debt collection if the individual is no longer a Federal employee. The head of an agency (or delegated official) may waive the requirement to repay the debt, if warranted.

Records and Annual Reporting Requirements

Bureaus/operating units must maintain thorough documentation of each determination to pay a recruitment, retention, or relocation incentive. All records must be available for review and audit by the OHRM and OPM and must include:

- A copy of the Service Agreement;
- Initial incentive determination;
- Employee's rating of record for the previous period (not required for recruitment incentives);
- Criteria used to determine the need for paying the incentive and how the criteria was applied;
- Criteria used to determine the amount of the incentive and how the criteria was applied;
- Qualifications of the candidate/employee that demonstrates that he/she meets any required special qualifications; and
- Standard-Form 50 to document the incentive (filed in the employee's Official Personnel Folder).

By March 31 in each of the years 2009 through 2010, each Executive agency must submit a written report to OPM on the use of the recruitment, retention, and relocation incentive authorities during the previous calendar year. This information is used by OPM for Congressional reporting in accordance with section 101(c) of Public Law 108-411. The OHRM will request the data from bureau contacts upon receipt of the data call from OPM (usually in

December of each year), consolidate bureau reports and prepare the final Departmental submission to OPM. Each bureau/operating unit must provide for their serviced clients:

- A description of how each authority (i.e., recruitment, relocation, and retention incentives) was used during the previous calendar year, including information on whether (and, if so, how) the use of the authorities improved recruitment and retention efforts;
- The total dollar amount of each category of incentive (recruitment, relocation, and retention) paid during the previous calendar year by pay plan; occupational series; occupational series title; and grade/band, pay or work level, or other pay classification;
- Barriers faced in using the recruitment, relocation, and retention incentive authorities as human capital management flexibilities; and
- Other information, records, reports, and data as OPM may require.

Reviews

Use of recruitment, relocation and retention incentives is subject to review by DOC as part of the OPM Center for Merit System Accountability Audit Program which studies the human resources management systems of agencies to ensure the authorities are used correctly in accordance to law, regulation and the Department's plan.

THE FOLLOWING APPLIES TO THE SPECIFIC INCENTIVE AUTHORITY:

RECRUITMENT INCENTIVES

A recruitment incentive is paid to a *newly appointed* employee if it has been determined that the position is critical to the mission of the organization, and in the absence of the incentive, it would be difficult to fill the position with a highly qualified employee. An "employee" for this purpose means an individual who is newly appointed in the organization, or an individual who is in receipt of a written offer of appointment and has signed a Service Agreement.

Recruitment incentives may also be offered on a group basis for similar positions that have been difficult to fill in the past or that are likely to be difficult to fill in the future.

Authorizing a Recruitment Incentive

A recruitment incentive may be authorized and paid when, in the absence of the incentive, it would be difficult to fill a position with a highly qualified employee. The determination to pay a recruitment incentive must be made before the prospective employee enters on duty.

Approval Criteria

A recruitment incentive and the amount of each incentive must be justified in writing by the appropriate approving authority before the incentive may be paid. However, an approving

official may authorize recruitment criteria and an incentive range in advance for a category of positions in order to allow a supervisor to offer the incentives without further case-by-case review by the approving authority. The determination to pay a recruitment incentive must be based on factors including, but not limited to:

- The success of recent efforts to recruit candidates for similar positions using indicators such as acceptance rates, the proportion of positions filled, the length of time required to fill similar positions, and the probable cost of renewed recruitment efforts;
- Recent turnover in similar positions;
- The current non-federal salary and fringe benefits package the candidate receives;
- Employment trends and competition in the labor market that may affect recruiting candidates for similar positions;
- Special qualifications or competences (i.e., knowledge, skills, abilities, etc.) required for the position (or group of positions);
- Efforts to use non-pay authorities, such as special training and work scheduling flexibilities to resolve difficulties alone or in combination with a recruitment incentive;
- The desirability of the duties, work and organizational environment or geographic location of the position; and
- Other supporting factors.

Recruitment incentives for groups or categories of employees may be targeted and authorized for groups or categories of positions that have been difficult to fill in the past or that may be difficult to fill in the future. A written determination to offer a recruitment incentive must be in writing and all other requirements of this Plan must be met in order to pay a recruitment incentive to an individual employee in the covered group.

When a recruitment incentive is used with other types of discretionary compensation flexibilities (e.g., student loan repayments, superior qualifications appointments, etc.) the written justification must address the total proposed compensation options and the rationale for using the different pay mechanisms.

Note that if OPM has granted direct hire authority for a group of positions deemed critical to the organization's mission, then the bureau/operating unit may determine that a position or group of positions is likely to be difficult to fill.

Calculating a Recruitment Incentive

Recruitment incentives may generally not exceed 25% of an employee's annual rate of basic pay in effect at the start of the service period multiplied by the number of years (including fractions of a year) in the service period, not to exceed four years. For example, if an employee is paid 25% for two years, the total incentive would amount to 50% of their annual rate of basic pay at the start of the service period.

Recruitment incentives may be authorized (with proper OHRM and OPM approval) up to 50% (based on a critical agency need), as long as the total incentive does not exceed 100% of the employee's annual rate of basic pay at the beginning of the service period and the OHRM and OPM have.

A recruitment incentive may not be made retroactively. Additionally, a recruitment incentive may not be paid prior to the effective date of the signed Service Agreement. However, an incentive may be authorized for an individual not yet employed who has received a written offer of employment and signed a written Service Agreement.

RETENTION INCENTIVES

A retention incentive is paid to a *current employee* if it is determined that the unusually high or unique qualifications of the employee or a special need of the organization for the employee's services makes it essential to retain the employee and the employee would be likely to leave the Federal service in the absence of a retention incentive. A retention incentive may also be paid to an employee who is likely to leave the Department for another Federal position before the closure or relocation of the employee's office, facility, activity, or organization and if there is a special need for the employee's services.

Authorizing a Retention Incentive

A retention incentive may be authorized and paid when a determination is made that the unusually high or unique qualifications of the employee, or a special need of the agency for the employee's services, makes it essential to retain the employee and that the employee would be likely to leave the Federal service in the absence of a retention incentive. Determinations are to be made on a case-by-case basis, except when making determinations for groups or categories of employees. The basis for determining the amount and timing of the incentive payment and the length of the service period must be documented in writing. The authorizing official must review and approve the retention incentive documentation and determination before the incentive may be paid to the employee. A retention incentive may not be made to recruit an employee from an agency outside of the Department, to recruit a job candidate, or prior to actual employment with the Department.

Approval Criteria

A retention incentive and the amount of the incentive must be justified in writing by the appropriate approving authority before the incentive may be paid. The determination to pay a retention incentive must be based on a consideration of factors including, but not limited to:

- Employment trends and labor market factors. The availability of quality candidates in the labor market that have the required competencies and who could perform all the duties and responsibilities of the employee's position at the level performed by the employee, with

- minimal training, cost, or disruption of the service to the public;
- The success of recent efforts to recruit candidates and retain employees with qualifications similar to those possessed by the employee for positions similar to the position held by the employee;
- Any special or unique competencies, skills, or training required for the position;
- Efforts to use non-pay human resources (HR) flexibilities (e.g., work scheduling options, telework, special training, improved working conditions, etc.) to help retain the employee;
- Salary and fringe benefits packages usually paid outside of the federal government;
- The desirability of the duties, work or organizational environment, geographic locations of the positions;
- The extent to which the employee's departure would impair the ability to carry out an activity, perform a function, and/or complete a project deemed essential to the agency's mission. If a retention incentive is based on the likelihood that an employee is likely to retire if the incentive is not paid, documentation to show recruitment and/or succession planning efforts for the position should also be included; and
- Other supporting factors.

Determinations for retention incentives for groups or categories of employees must be narrowly defined, in writing and clearly demonstrate that the group or category of employees has unusually high or unique qualifications, or that there is a special need for the employees' services that makes it essential to retain the employees in that category. The written documentation must also show that it is reasonable to presume that there is a high risk that a significant number of employees in the targeted group or category are likely to leave under one of the following conditions in the absence of the incentive:

- Likely to leave the Federal service for any reason;
- Likely to leave his/her position for another Federal position under a different pay system; or
- Likely to leave his or her position for a position under the same or different Federal pay system prior to the closure of the employee's office or facility; relocation of the employee's office or facility to a different commuting area; or the completion of a project

Note that group retention incentives for a *group of employees likely to leave for another Federal position* may cover no more than one occupational series.

Second-level supervisory approval is not required when approving coverage of individual employees under a previously approved group retention incentive authorization.

Calculating a Retention Incentive

Retention incentives are calculated as a percentage of the employee's annual rate of basic pay (including a special salary rate and locality pay), not to exceed 25% of the annual rate of basic pay. Retention incentives for groups or categories of employees are also calculated as a percentage, not to exceed 10% of the basic pay of each employee in the group or category

authorized to receive the incentive. Note that when an employee is receiving a retained rate of pay, the maximum rate of basic pay for the employee's grade is used in lieu of the retained rate for calculating the incentive amount.

Retention incentives may be authorized (with proper OHRM and OPM approval) for individuals or groups or categories of employee up to 50% based on a critical agency need. In this case, a determination must be made that the unusually high or unique qualifications of the employee (or group or category of employees) is necessary and essential to retain the employee or group/category for the successful completion of an important agency mission, project, or initiative, and that there is a risk that the employee or a significant number of employees in the group/category would leave the Federal service absent the initiative. A competing written salary offer (non-Federal) may be used as documentation in considering the amount of a retention incentive; however, the written offer should not be more than 90 days old.

Note that since this Plan requires a service agreement for all retention incentives, there is no requirement to review each determination to pay the incentive on an annual basis.

RELOCATION INCENTIVES

A relocation incentive is paid to a *current employee* who must relocate (permanently or temporarily and with no break in service) to accept a position in a different geographic area if it is determined that the position is likely to be difficult to fill in the absence of the incentive. A relocation incentive may be paid to an employee who is involuntarily relocated. An employee must establish a residence in the new geographic area before the agency may pay a relocation incentive.

Approval Criteria

A relocation incentive and the amount of the incentive must be justified in writing by the appropriate approving authority and the determination to pay the incentive must be made prior to the prospective employee entering on duty in the position for which relocated. The determination to pay a relocation incentive is generally made on a case-by-case basis and is based on a consideration of factors including, but not limited to:

- The availability and quality of candidates possessing the competencies required for the positions, including the success of recent recruitment efforts to recruit candidates for the position or similar positions, using indicators such as offer acceptance rates, proportion of positions filled, and the length of time required to fill similar positions;
- The salaries typically paid outside the Federal Government for similar positions;
- Recent turnover rates in similar positions;
- Special or unique competencies required for the position;
- Agency efforts to use non-pay authorities, such as special training and work scheduling flexibilities, to resolve difficulties alone or in combination with a relocation incentive;

- Personal or professional disruption that will occur as a result of relocation and/or the undesirability of the geographic area of the proposed new duty station;
- The desirability of the duties, work or organizational environment, geographic locations of the positions; and
- Other supporting factors.

Determinations for relocation incentives for groups or categories of employees must be in writing and clearly demonstrate that a group of positions is likely to be difficult to fill and the bureau/operating unit is likely to have difficulty recruiting candidates with the competencies (i.e., knowledge, skills, abilities, behaviors, and other characteristics) required for group of positions in the absence of a relocation incentive.

The case-by-case approval requirement may be waived when a member of a group of employees is subject to a mobility agreement or when a major organizational unit is being relocated to a new duty station. Under such a waiver, the following must be specified:

- The group of employees covered;
- The conditions under which the waiver is approved, and
- The period of time during which the waiver may be applied.

Groups of employees must be approved for relocation incentives using the same criteria that apply to individuals.

Note that second-level supervisory approval is not required when approving coverage of individual employees under a previously approved group relocation incentive authorization.

An agency also may determine that a position is likely to be difficult to fill if OPM has approved the use of a direct-hire authority applicable to the position.

Different Geographic Area

A different geographic area is defined as one which is 50 miles or more from the worksite of the position held immediately before the move to the new position. When the new position is less than 50 miles from the former position but the employee must move and establish a new residence to accept the position, the 50-mile requirement may be waived (see 5 CFR 575.205(b)). In all cases, the employee must show evidence that a new residence in the new geographic location has been established.

Calculating a Relocation Incentive

Relocation incentives are calculated as a percentage of the employee's annual rate of basic pay, not to exceed 25% of the annual rate of basic pay. Relocation incentives may generally not exceed 25% of an employee's annual rate of basic pay in effect at the start of the service period multiplied by the number of years (including fractions of a year) in the service period, not to exceed four years. For example, if an employee is paid 25% for 2 years, the total incentive

would amount to 50% of their annual rate of basic pay at the start of the service period.
Note that the locality rate for the new location must be used to calculate the relocation incentive.

Relocation incentives may be authorized (with proper OHRM and OPM approval) up to 50% (based on a critical agency need), as long as the total incentive does not exceed 100% of the employee's annual rate of basic pay at the beginning of the service period.

**Department of Commerce (DOC)
Relocation Incentive Service Agreement**

Employee Name: _____

Position: _____

Pay Plan/Series/Grade or Band: _____

Bureau/Organization/Duty Station: _____

Required service period (not less than 6 months and may not exceed 4 years)
Commencement date: _____ Termination Date: _____

Amount of Incentive (percentage of salary): _____

Method and Timing of Payments:

- a. Lump Sum: _____
- b. Installments by pay period: _____
- c. Final Lump Sum: _____
- d. Combination of the above: _____

In return for the payment of the relocation incentive specified above, I agree to accept the terms and conditions specified below:

1. I understand that the agency may terminate the relocation incentive service agreement based solely on the management needs of the agency. This may be due to a reduction-in-force or when there are insufficient funds to continue the planned incentive payments, or if I am assigned to a different position (if the different position is not within the terms of the service agreement). If the relocation incentive service agreement is terminated for the reasons listed above, I understand that I am entitled to retain relocation incentive payments previously paid that are attributable to the completed portion of the service period and any portion of a payment received or owed that is attributable to uncompleted service.
2. I understand that the agency must terminate the relocation incentive service agreement if in the performance of my duties in this position I am rated less than "Fully Successful" or equivalent during this period, demoted or separated for cause, or otherwise fail to fulfill the terms of the service agreement. If the relocation incentive service agreement is terminated for the reasons listed above, I understand that I am entitled to retain all relocation incentive payments that are attributable to completed service but I must repay any portion of the incentive attributable to uncompleted service. If I received less than the amount that would be attributable to the completed portion of the service period, the agency is not obligated to pay the amount attributable to completed service. I also understand that if I received relocation incentive payments in excess of the amount that would be attributable to the completed portion of service period, I will be indebted to the and must repay the excess amount.

3. I understand that termination of a service agreement is not grievable or appealable.

Employee's Signature _____ Date _____

Manager's Signature _____ Date _____

Authorized Agency Official Signature _____ Date _____

A copy of this agreement must be sent to the servicing human resources management office for inclusion in the employee's Official Personnel Folder on the left side.

**Department of Commerce (DOC)
Recruitment Incentive Service Agreement**

Employee Name: _____

Position: _____

Pay Plan/Series/Grade or Band: _____

Bureau/Organization/Duty Station: _____

Required service period (not less than 6 months and may not exceed 4 years)

Commencement date: _____ Termination Date: _____

Amount of Incentive (percentage of salary): _____

Method and Timing of Payments:

a. Lump Sum: _____

b. Installments by pay period: _____

c. Final Lump Sum: _____

d. Combination of the above: _____

In return for the payment of the recruitment incentive specified above, I agree to accept the terms and conditions specified below:

1. I understand that the agency may terminate my recruitment incentive service agreement based solely on the management needs of the agency. This may be due to a reduction-in-force or when there are insufficient funds to continue the planned incentive payments, or if I am assigned to a different position (if the different position is not within the terms of the service agreement). If my recruitment incentive service agreement is terminated for the reasons listed above, I understand that I am entitled to retain recruitment incentive payments attributable to the completed portion of the service period and any portion of a payment received or owed that is attributable to uncompleted service.
2. I understand that the agency must terminate the recruitment incentive service agreement if in the performance of my duties in this position I am rated less than "Fully Successful" or equivalent during this period, demoted or separated for cause, or otherwise fail to fulfill the terms of the service agreement. If the recruitment incentive service agreement is terminated for the reasons listed above, I understand that I am entitled to retain all recruitment incentive payments that are attributable to completed service but I must repay any portion of the incentive attributable to uncompleted service. If I received recruitment incentive payments that were less than the amount that would be attributable to completed service, the agency is not obligated to pay any of the outstanding incentive payments attributable to completed service. I also understand that if I received recruitment incentive payments in excess of the amount that would be attributable to the completed portion of the service period, I will be indebted to the Department of Commerce and must repay the excess amount.

3. I understand that the agency must terminate the recruitment incentive service agreement if I am separated as a result of material false or inaccurate statements or deception or fraud in examination or appointment, or as a result of failing to meet employment qualifications. If the recruitment incentive service agreement is terminated for the reasons listed above, I will be indebted to the Department of Commerce and must repay all of the recruitment incentive received under the service agreement.
4. I understand that termination of a service agreement is not grievable or appealable.

Employee's Signature	Date
Manager's Signature	Date
Authorized Agency Official Signature	Date

A copy of this agreement must be sent to the servicing human resources management office for inclusion in the employee's Official Personnel Folder on the left side.

**Department of Commerce
Retention Incentive Service Agreement**

Employee Name: _____

Position: _____

Pay Plan/Series/Grade or Band: _____

Bureau/Organization/Duty Station: _____

Required service period (must begin on first day of a pay period and end on the last day of a pay period): Commencement date: _____ Termination Date: _____

Amount of Incentive (percentage of salary): _____

Method and Timing of Payments:

- a. Equal dollar installments by biweekly pay period: _____
- b. Final lump sum payment (after completion of the full service period): _____

In return for the payment of the retention incentive specified above, I agree to accept the terms and conditions specified below:

1. I understand that the agency may terminate the retention incentive service agreement based solely on the management needs of the agency. This may be due to a reduction-in-force or when there are insufficient funds to continue the planned incentive payments. If the retention incentive service agreement is terminated for the reasons listed above, I understand that I am entitled to retain retention incentive payments previously paid that are attributable to the completed portion of the service period and any portion of a retention incentive payment owed by for completed service.
2. I understand that the agency must terminate the retention incentive service agreement when conditions change such that the original determination to pay the retention incentive no longer applies (e.g., if I am reassigned to a different position that is not within the terms of the service agreement or when payment is no longer warranted). If the retention incentive service agreement is terminated for the reasons listed above, I understand that I am entitled to retain retention incentive payments previously paid that are attributable to the completed portion of the service period and any portion of a retention incentive payment owed for completed service.
3. I understand that the agency must terminate the retention incentive service agreement if in the performance of my duties in this position I am rated less than "Fully Successful" or equivalent during this period, demoted or separated for cause. If the retention incentive service agreement is terminated for the reasons listed above, I understand that I am entitled to retain retention incentive payments previously paid that are attributable to the completed portion of the service period. If I received retention incentive payments that were less than the amount that would be attributable to completed service, the agency is not obligated to pay any outstanding incentive payments attributable to completed service.

4. I understand that termination of a service agreement is not grievable or appealable.

Employee's Signature Date

Manager's Signature Date

Authorized Agency Official Signature Date

A copy of this agreement must be sent to the servicing human resources management office for inclusion in the employee's Official Personnel Folder on the left side.

Termination of a Service Agreement

The following OPM table illustrates the effects of terminating a service agreement on an employee's recruitment or relocation incentive payments.

Portion of incentive received as of the date the service agreement is terminated	Reason for termination of service agreement	
	Management needs of the agency (5 CFR 575.111(a) and 575.211(a))	Employee is demoted or separated for cause, employee receives rating of record of lower than "Fully Successful", or employee fails to fulfill terms of the service agreement (5 CFR 575.111(b) and 575.211(b))
Amount of incentive received is <i>equal to or less than</i> the prorated amount of the total incentive attributable to completed service	<ul style="list-style-type: none"> • Employee keeps incentive payments received prior to termination of service agreement • Agency must pay employee all outstanding payments not yet received for completed service • No additional payment by agency for uncompleted service (5 CFR 575.111(e) and 575.211(e))	<ul style="list-style-type: none"> • Employee keeps incentive payments received prior to termination of service agreement • No repayment by employee • No additional payment by agency for completed service (unless provided in service agreement) • No additional payment by agency for uncompleted service (5 CFR 575.111(f) and 575.211(f))
Amount of incentive received is <i>greater than</i> the prorated amount of the total incentive attributable to completed service	<ul style="list-style-type: none"> • Employee keeps incentive payments received prior to termination of service agreement (including payment attributable to uncompleted service) • No additional payment by agency for uncompleted service (5 CFR 575.111(e) and 575.211(e))	<ul style="list-style-type: none"> • Employee keeps incentive payments received prior to termination of service agreement that are attributable to completed service • Employee must repay any amount received that is attributable to uncompleted service • No additional payment by agency for uncompleted service (5 CFR 575.111(f) and 575.211(f))

Examples of Calculations upon Termination of a Service Agreement

If an agency terminates a service agreement based on management needs under 5 CFR 575.111(a) or 575.211(a), the employee is entitled to any incentive payments attributable

to completed service and is entitled to retain any portion of an incentive payment he or she received that is attributable to uncompleted service. *Example B* illustrates this type of calculation.

Example B: An employee who signed a 364-day (26-pay period) service agreement will receive a total recruitment incentive of \$28,043 in two installment payments—i.e., \$14,021 at the end of 13 pay periods of completed service and \$14,022 at the end of 26 pay periods of completed service. The employee receives the first payment of \$14,021. However, after 20 pay periods (280 days), the employee is affected by a reduction in force and the agency terminates the service agreement. The employee is entitled to keep the \$14,021 recruitment incentive payment already received and to receive a prorated share of the second planned recruitment incentive payment based on the amount of service completed. The employee would receive an additional \$7,544.07 ($280 \text{ days}/364 \text{ days} = 76.9\%$; $76.9\% \times \$28,043 = \$21,565.07$; $\$21,565.07 - \$14,021 = \$7,544.07$). (Note: If this same employee had received the \$28,043 recruitment incentive as an initial lump-sum payment at the beginning of the service period, the employee would be entitled to keep the entire recruitment incentive, including the portion attributable to uncompleted service.)

If an agency must terminate a service agreement under 5 CFR 575.111(b) or 575.211(b) (when the employee is at fault), the employee is entitled to retain incentive payments previously paid by the agency that are attributable to the completed portion of the service period. If the employee received incentive payments that are less than the amount that would be attributable to the completed portion of the service period, the agency is not obligated to pay the employee the amount attributable to completed service, unless the agency agreed to such payment under the terms of the incentive service agreement. If the employee received incentive payments in excess of the amount that would be attributable to the completed portion of the service period, he or she must repay the excess amount. *Example C* illustrates this type of calculation.

Example C: An employee signed a 364-day (26-pay period) service agreement and received the full amount of a \$28,043 relocation incentive as an initial lump-sum payment. If the agency separates the employee for conduct after 20 pay periods (280 days), the employee must repay 23.1 percent (84 days/364 days) of the incentive, or \$6,477.93 ($\$28,043 \times 23.1\%$). The employee may keep 76.9 percent (280 days/364 days) of the incentive, or \$21,565.07 ($\$28,043 \times 76.9\%$).