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Approved for Release
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Date

DEPARTMENT OF COMMERCE
OFFICE OF HUMAN RESOURCES MANAGEMENT

HUMAN RESOURCES (HR) BULLETIN #110, FY 09

SUBJECT: Recruitment, Relocation, and Retention Incentives Plan

EFFECTIVE DATE: Upon release of this Bulletin

EXPIRATION DATE: Effective until canceled or superseded

Supersedes: Supersedes HR Bulletin #081, FY 09, "Recruitment, Relocation, and Retention Incentives Plan"

BACKGROUND: On May 27, 2009, the Office of Personnel Management (OPM) directed Departments and Agencies across the Federal Government to examine their Recruitment, Relocation and Retention Incentives Plans to ensure that they are in compliance with all applicable laws and regulations. This directive stems from the President's desire that every tax dollar being spent is being spent wisely. OPM is interested in ensuring that Departments and Agencies are using these incentives in an efficient manner.

PURPOSE: This HR Bulletin is intended to transmit a revised version of the Department of Commerce (DOC) Recruitment, Relocation, and Retention Incentives Plan. The revised Plan includes modifications to policies that govern the approval process and justification as well as the reporting requirements.

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

POLICY: See attached.

REFERENCES: OPM's "Review of Recruitment, Relocation and Retention Incentives" memorandum (dated July 10, 2009); OPM's "Effective Use of Recruitment, Relocation and Retention Incentives" memorandum (dated May 27, 2009); Title 5 U.S.C. §§ 5753 and 5754; Recruitment, Relocation, and Retention Incentives Questions and Answers; 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, RELOCATION, AND RETENTION INCENTIVES PLAN

Recruitment, relocation, and retention (3Rs) incentives are used to strategically address human capital needs and build and maintain a high-performing workforce with essential skills and competencies. The following is the Department of Commerce (Department) Recruitment, Relocation, and Retention Incentives Plan (Plan). The Plan provides policy guidelines for all three incentives (unless otherwise indicated). The provisions of this Plan apply uniformly across the Department, including employees under the Commerce Alternative Personnel System (CAPS) and the National Institute of Standards and Technology Alternative Personnel Management System (APMS). 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

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

THE FOLLOWING APPLIES TO RECRUITMENT, RELOCATION, AND RETENTION AUTHORITIES:

Intent and General Guidelines

The use of the 3Rs incentives should be limited to recruiting and retaining highly-qualified candidates who would otherwise seek employment outside of the Federal Government for similar positions in the private, non-profit and academic sectors. Per OPM guidelines, the use of the 3Rs incentives is not to be used as a substitute for traditional recruiting efforts, which could yield a competent and qualified employee

without the use of such incentives. Specifically, the 3Rs incentives should generally only be offered when a position requires knowledge, skills, abilities and education that are difficult to find in the Federal and non-Federal workforce. In determining whether to recommend the use of these incentives, Department officials should thoroughly weigh the financial costs associated with the approval of these incentives with the actual benefit.

Approving Officials

Heads of operating units are delegated the authority to make the determination to pay a recruitment or relocation incentive up to $10,000 for individual employees in their organizations. For recruitment and relocation incentives exceeding $10,000, additional approval is required from the Departmental Deputy Chief Human Capital Officer/Director for Human Resources Management. In accordance with Department Administrative Order 202-250, Delegations of Authority for Human Resources Management, the authority to make the determination to pay a recruitment or relocation incentive 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/Assistant Secretary for Administration (CFO/ASA) is the approving official. In cases where the CFO/ASA made the initial determination, the Deputy Secretary is the approving official.

All individual or occupational group retention incentives must be approved by the Departmental Deputy Chief Human Capital Officer/Director for Human Resources Management (up to 25% for an individual retention incentive and up to 10% for an occupational or group retention incentive).

Approval for recruitment, relocation, and retention incentives for employees under the CAPS is governed by the CAPS Board, and approved by the Departmental Deputy Chief Human Capital Officer/Director for Human Resources Management 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 (CAPS), National Institute of Standards and Technology's Alternative Personnel Management System, or (APMS) (ZA, 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 OPM. This includes NOAA's Wage Marine employees (authorized on 10/23/1992) and Census Bureau's Administratively Determined (AD) and Grades similar to the General Schedule (GG) employees (authorized on 10/05/1998).

The following categories of employees may be authorized to receive a recruitment incentive as long as the following 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 Title 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 Title 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;
- Operating unit heads; and
- Those expected to receive an appointment as an operating unit 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 Title 5, CFR Part 317, subpart H.

Performance Appraisal Standards

Relocation and Retention incentives are dependent upon an employee's performance. Relocation and Retention incentives may only be paid when the employee's most recent performance appraisal is at least "Fully Successful" or equivalent. Under the Department's 5-Level system, a performance appraisal rating of Level 3 or higher equates to "Fully Successful." Under CAPS, a performance appraisal rating of Eligible equates to "Fully Successful." Under APMS, a performance appraisal rating of "Contributor" equates to "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 described in Title 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
- Any combination of the above.

A **retention incentive** may be paid in one of the following 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

The 3Rs 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 3Rs incentives, an employee's rate of basic pay includes:

- Special rate under Title 5, CFR Part 530, subpart C; or
- Locality payment under Title 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

Biweekly or annual premium pay limitations do not apply to the 3Rs incentives because they are not considered premium pay.

Aggregate Pay Limitation

The 3Rs incentives are subject to the aggregate limitation on pay under Title 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 nondiscretionary payment for the purposes of administering the aggregate pay limitation and should not be deferred prior to deferral of any discretionary payments. (Payments that are authorized to an employee under the terms of a service agreement or preauthorized to be made at a regular fixed rate each pay period are *not* discretionary payments). For additional information, see the definition of "discretionary payments" in Title 5, CFR 530.202.

Multiple Incentives

In most instances, the simultaneous paying of multiple incentives or concurrent recruitment, relocation, and retention incentives is not allowed. The following are specific restrictions that apply to the paying of simultaneous incentives:

- *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 that results in two service agreements running concurrently.

Service Agreements

Before an employee is eligible to receive a recruitment, relocation, or retention incentive, an employee must sign a Service Agreement that includes the following elements:

- 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 2 decimal places. For example, a service period covering 35 biweekly pay periods equals 490 days; 490 days divided by 365 days equals 1.34 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. A retention incentive service period must also begin on the first day of a pay period and end on the last day of a pay period under Title 5, CFR 575.310 (b).

- 3Rs Commencement and Termination Dates - A recruitment incentive begins 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 Title 5, CFR 575.109(d).

    a. 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 operating unit 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.
    b. A retention incentive must begin on the first day of a pay period and end on the last day of a pay period.
    c. 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 before the start of the service period. The service periods for recruitment and relocation incentives must end on the last day of a pay period.

- 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 an incentive agreement will be terminated must be specified in the Service Agreement and the employee must be notified in writing when the agreement is terminated. (See Summary of OPM's 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 (fails to fulfill terms), 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's separation results 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. 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 does not repay the bureau/operating unit for incentive payments received for uncompleted service and the bureau/operating unit has made a reasonable effort to collect the payment from the employee, the bureau/operating unit is required to recover the amount 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, and the duties the employee is expected to perform.

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 Deputy Chief Human Capital Officer/Director for Human Resources Management (OHRM) and OPM. In general, waiver requests should be limited to instances of unprecedented need by a bureau/operating unit. If approved, 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 operating unit need; and
- Relocation incentives of more than 25% (up to 50%) based on a critical operating unit need.

Requests for waivers must include the following documents:

For Relocation or Recruitment Incentives –

- A thorough and accurate description of the critical operating unit need, which must contain a detailed analysis of how the employee's skills, knowledge and education fill the stated need;
- The documentation for the written determination to authorize a recruitment incentive under Title 5, CFR 575.108 or a relocation incentive under Title 5, CFR 575.208;
- The proposed incentive payment amount and justification. The justification should include an explanation of why an incentive of less than 25% or 10% (for a group) cannot be given to recruit or retain a qualified candidate;
- The proposed effective date and payment method; and
- The service period required, and any other information pertinent to the case at hand (see Title 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 operating unit need;
- The written documentation required by Title 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

Operating Units shall make a reasonable effort to recover recruitment or relocation incentives when any portion of the allotted amount is owed to the Department. 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 under Title 5, U.S.C. § 5514 and Title 5, CFR Part 550, subpart K or through the appropriate provisions governing Federal debt collection if the individual is no longer a Federal employee. Federal debt collection procedures should only be employed when an employee is unresponsive to reasonable requests by the operating unit to collect the debt. The head of an operating unit (or delegated official) may waive the requirement to repay the debt, if warranted.

THE FOLLOWING CRITERIA APPLIES TO EACH INDIVIDUAL 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 from either the Federal or private sector. 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 be awarded to groups of employees for similar positions that have either been difficult to fill in the past or 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

The decision to award a recruitment incentive and the amount to be paid 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 ($10,000 or less) in advance for a category of positions. This authorization allows a supervisor to offer the incentives without further case-by-case review by the approving authority. Recruitment incentives exceeding $10,000 must be submitted in advance and approved by the Departmental Deputy Chief Human Capital Officer/Director for Human Resources Management. The determination to pay a recruitment incentive must be based on factors including, but not limited to:

- The success (or lack thereof) of recent efforts to recruit candidates for similar positions, using indicators such as job offer acceptances 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. For purposes of recruitment incentives approval, positions are considered similar if they have the same duties and responsibilities and have the same level of responsibility;
- The current non-Federal salary and fringe benefits package the candidate receives;
- Employment trends and competition in the labor market that make it difficult to recruit candidates for similar positions;
- Special qualifications or competences (i.e., knowledge, skills, abilities, education, etc.) required for the position (or group of positions). These competencies must be applicable to a vast majority of the duties and responsibilities of the job;
- Efforts to use non-pay authorities and other methods, such as special training, work scheduling flexibilities, delegation of special projects 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 that addresses all of the requirements of this Plan must be met and properly approved, in advance, 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 operating unit 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.

A recruitment incentive may *not* be made retroactively. Additionally, a recruitment incentive may *not* be paid before 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 has signed a written Service Agreement.

RETENTION INCENTIVES

A retention incentive is paid to a *current employee* under the following conditions: 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; or other candidates, either within or outside of the Federal Government, with similar qualifications and experiences could not be recruited in the absence of such an 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. In general, a retention incentive is not to be used as a tool to abandon the pursuit of highly qualified candidates through traditional recruiting efforts.

Authorizing a Retention Incentive

A retention 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 retention incentive must be made before the prospective employee enters on duty.

Approval Criteria

All retention incentives must be approved by the Deputy Chief Human Capital Officer/Director for Human Resources Management. 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 or Department outside of the DOC, to recruit a job candidate, or prior to actual employment with the Department.

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 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. For purposes of retention incentive approval, positions are considered similar when they possess the same duties and responsibilities *and* the same level of responsibility;
- Any special or unique competencies, skills, or training required for the position should be thoroughly described in relation to the operating unit's work;
- 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 benefits packages usually paid for comparable positions with similar duties and responsibilities in the private, non-profit and government (non-Federal) sectors;
- 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 operating unit's mission. If a retention incentive is based on the likelihood that an employee is likely to retire if the incentive is not paid, include recruitment and/or succession planning efforts for the position; 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 clearly demonstrate that there is a high risk 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; if possible, documentation should indicate which sector (private, non-profit, academic, etc.) of the workforce the group of employees are migrating to;
- Likely to leave his/her position for another Federal position under a different pay

system; if possible, the pay system should be identified;

- 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; if possible, the Federal departments and agencies most commonly transferred to by the group or category of employees should be identified.

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 employees up to 50% based on a critical operating unit 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 operating unit 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.

To renew all retention incentives, all retention incentives must be reviewed, approved, recertified and be in compliance with this Plan on an annual basis prior to submitting to the Departmental Deputy Chief Human Capital Officer/Director for Human Resources Management.

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 an

operating unit may pay a relocation incentive. Relocation incentives should not be used as a substitute for traditional recruiting methods that could yield a highly-qualified candidate in the absence of such an incentive.

Authorizing a Relocation Incentive

A relocation 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 relocation incentive of up to $10,000 may be approved by the head of the operating unit; for amounts exceeding $10,000, the request must be submitted to the Departmental Deputy Chief Human Capital Officer/Director for Human Resources Management for approval. 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 must be based on 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;
- Operating unit 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 a 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.

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

An operating unit 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 under Title 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 operating unit 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.

Records and Annual Reporting Requirements

Bureaus and operating units must maintain thorough and accurate documentation of each determination to pay a 3Rs incentive. All records must be available for review and audit by the OHRM's Office of Accountability and Strategic Recruitment and OPM and each record must include:

- A copy of the Service Agreement;
- The amount of the initial incentive determination;
- The employee's rating of record for the previous period (not required for recruitment incentives);
- A detailed explanation of the criteria used to determine the need for paying the incentive and how the criteria was applied;
- A detailed explanation of the 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 and 2010, the Department must submit a written report to OPM on the use of the 3Rs 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. 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 and operating unit must provide the following for their serviced clients:

- A detailed description of how each authority (i.e., recruitment, relocation, and retention incentives) was used during the previous calendar year, including qualitative and quantitative information on whether 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;
- A description of any difficulties faced in using the recruitment, relocation, and retention incentive authorities;
- Other information, records, reports, and data as OPM may require.

Reviews

Use of the 3Rs incentives is subject to review by OHRM's Office of Accountability and Strategic Recruitment. These reviews will be comprehensive and will include, but are not limited to, the examination of: compliance with all regulatory requirements related to incentives; compliance with Departmental and OPM policies and procedures; and

rationale for the justification for awarding incentives. These reviews will be a 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.

In addition, the use of recruitment and relocation allowances that are $10,000 and below will be reviewed by OHRM's Office of Policy and Programs (OPP) on a quarterly basis. Effective October 2009, bureaus and operating units will submit a copy of approved recruitment and relocation incentives to OPP for review by the 10th business day following the end of the quarter (e.g., for the quarter ending December 31 2009, approved incentives must be received by January 15, 2010). Bureaus and operating units should include all of the elements outlined in the approval criteria for each incentive award. Retention incentives do *not* need to be submitted to OPP on a quarterly basis since all retention incentives are reviewed and approved by OHRM.