
Approved for Release

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Date

**DEPARTMENT OF COMMERCE
OFFICE OF HUMAN RESOURCES MANAGEMENT
HUMAN RESOURCES (HR) BULLETIN #247, FY21**

SUBJECT: Recruitment, Relocation, and Retention Incentives Plan

EFFECTIVE DATE: Upon release of this HR Bulletin

EXPIRATION DATE: Effective until canceled or superseded

SUPERSEDES: Supersedes HR Bulletin #141, FY11, "Recruitment, Relocation, and Retention Incentives Plan"

REVISION: This HR Bulletin modifies the approving official for retention incentives; adds the requirement for Principal Human Resources Managers' review/concurrence for all incentives; adds an annual review requirement for all retention incentives; updates relocation incentive requirements; and clarifies the process of obtaining Office of Personnel Management (OPM) approval, when applicable.

PURPOSE: The HR Bulletin provides the Department of Commerce's policy on the use of recruitment, relocation, and retention incentives.

COVERAGE: The provisions of the Department's "Recruitment, Relocation, and Retention Incentives Plan" apply to all bureaus/operating units (OU) of the Department.

POLICY: See pages 2–16, the "Department of Commerce Recruitment, Relocation, and Retention Incentives Plan"

REFERENCES: Title 5, Code of Federal Regulations (CFR) Part 575; Title 5, United States Code (U.S.C.) §§ 5753 and 5754; and OPM's "Recruitment, Relocation, and Retention Incentives Frequently Asked Questions"

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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 to build and maintain a high-performing workforce with essential skills and competencies. This Plan provides Department of Commerce (Department) policy for all three incentives. The provisions of the Plan apply across the Department, including positions under the Commerce Alternative Personnel System (CAPS) and the National Institute of Standards and Technology's Alternative Personnel Management System (APMS).

The Plan provides:

- Delegated Approval Authority
- Categories of Eligible and Ineligible Employees
- Pay
 - Payment Methods
 - Rate of Basic Pay
 - Biweekly Pay and Annual Pay Limitation
 - Multiple Incentives
- Service Agreement Requirements
 - Mandatory Termination
 - Discretionary Termination
 - Debt Recovery
- OPM Approval
- Regulatory Criteria
 - Recruitment Incentive
 - Relocation Incentive
 - Retention Incentive
- Calculating an Incentive
- Records and Annual Reporting Requirements

I. GENERAL POLICY

In accordance with OPM guidance, recruitment, relocation, and retention incentives should not be used as a substitute for traditional recruiting efforts, as traditional efforts could yield a highly qualified employee(s) without using an incentive. The incentives should only be offered when a position requires knowledge, skills, abilities, and/or education that are difficult to find in the Federal or non-Federal workforce. In determining whether to use an incentive, approving officials should weigh the financial cost against the actual benefit of the incentive.

Recruitment and relocation incentives are used to increase the applicant pool of difficult-to-fill positions; therefore, the decision to offer an incentive should be made prior to posting a Job Opportunity Announcement (JOA). JOAs should contain language indicating that a "recruitment or relocation incentive MAY be paid." While this is not a regulatory requirement, it is considered a best practice in recruiting difficult-to-fill positions.

Relocation and retention incentives may only be paid when the employee's most recent performance appraisal is at least "Fully Successful" or equivalent.

II. CATEGORIES OF ELIGIBLE EMPLOYEES

The following categories 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 (APMS), or ZA, ZP, ZT, ZS;
- Executive Schedule (EX);
- Career Senior Executive Service (SES);
- Senior Level (SL) or Scientific and 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 Mariner employees (authorized on 10/23/92), and the Census Bureau's Administratively Determined (AD) and Grades similar to the General Schedule (GG) employees (authorized on 10/05/98).

The following categories of employees may be authorized to receive a recruitment incentive as long as the 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 the position is critical to the mission of the organization, and without an incentive, it would be difficult to fill 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.

III. CATEGORIES OF INELIGIBLE EMPLOYEES

The following categories of employees are *ineligible* to receive a recruitment, relocation, or retention incentives:

- Presidential *appointees*;
- Non-career SES;
- Those appointed under the excepted service Schedule C authority due to the position's confidential or policy-determining nature;
- Operating unit (OU) heads; and
- Those expected to receive an appointment as an OU head.

A career SES member may *not* receive a recruitment or relocation incentive when they accept a Presidential appointment under Title 5, CFR Part 317, subpart H.

IV. APPROVING AUTHORITY

Heads of Bureaus/OUTs, or Designee – In accordance with Department Administrative Order 202-250, "Delegations of Authority for Human Resources Management," heads of bureaus/OUTs are responsible for administering an HR program consistent with personnel laws and regulations, and with Department policies, standards, procedures, and instructions. As such, heads of bureaus/OUTs have the authority to make a determination that a recruitment, relocation, or retention incentive is appropriate and meets the parameters of the policy, and to re-delegate that authority to other appropriate management official(s).

Higher Level Official Requirement – Each determination for a recruitment, relocation, or retention incentive must 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 bureau/OU than the official who made the initial determination, then the Chief Financial Officer/Assistant Secretary for Administration (CFO/ASA) is the approving official for all bureaus/OU's. In cases where the CFO/ASA made the initial determination, the Deputy Secretary of Commerce is the approving official.

Principal Human Resources Managers (PHRM), or Designee – Before effecting an incentive or submitting an approval request to the Director, Office of Human Resources Management (OHRM), if applicable, the appropriate PHRM or designee must concur that the determination meets all regulatory requirements.

The following charts describe the approval authorities for each incentive type:

A. Non-SES, ST/SL Positions

1. *Recruitment and Relocation Incentives*

| Type | Amount | Head of bureau/OU or designee | PHRM/designee concurrence | Director, OHRM approval | OPM Waiver |
|-----------------------------------|--------------------------------|--------------------------------------|----------------------------------|--------------------------------|-------------------|
| Individual recruitment/relocation | Up to 25% (\$10,000 and below) | Y | Y | N | N |
| Group recruitment/relocation | Up to 25% | Y | Y | N | N |

| | | | | | |
|-----------------------------------|----------------------------|---|---|---|---|
| Individual recruitment/relocation | Up to 25% (above \$10,000) | Y | Y | Y | N |
|-----------------------------------|----------------------------|---|---|---|---|

| Type | Amount | Head of bureau/OU or designee | PHRM/designee concurrence | Director, OHRM approval | OPM Waiver |
|-----------------------------------|-----------------------|--------------------------------------|----------------------------------|--------------------------------|-------------------|
| Individual recruitment/relocation | Above 25% (up to 50%) | Y | Y | Y | Y |
| Group recruitment/relocation | More than 25% | Y | Y | Y | Y |

Note: For CAPS-covered positions, all recruitment and relocation incentives must also be approved by the appropriate Operating Personnel Management Board (OPMB), or designee.

Note: For APMS-covered positions, all recruitment and relocation incentives must also be approved in accordance with the National Institute of Standards and Technology (NIST) policy for the particular incentive and dollar amount.

2. Retention Incentives

| Type | Amount | Head of bureau/OU or designee | PHRM/designee concurrence | Director, OHRM approval | OPM Waiver |
|----------------------|-----------|-------------------------------|---------------------------|-------------------------|------------|
| Individual retention | Up to 25% | Y | Y | N | N |
| Group retention | Up to 10% | Y | Y | N | N |

| | | | | | |
|----------------------|-----------|---|---|---|---|
| Individual retention | Above 25% | Y | Y | Y | Y |
| Group retention | Above 10% | Y | Y | Y | Y |

Note: For CAPS-covered employees, all retention incentives must also be approved by the appropriate OPMB or designee.

Note: For APMS-covered employees, all retention incentives must also be approved in accordance with the NIST retention incentive policy.

B. SES, ST/SL Positions

The CFO/ASA is the final approving official for all recruitment, relocation, and retention incentives for SES, ST, and SL positions. Therefore, in addition to all of the approval requirements for non-SES, ST/SL positions, the CFO/ASA must approve. Requests must be submitted to the OHRM Director for submittal to the CFO/ASA.

V. 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 without the incentive, would be difficult to fill with a highly qualified employee from either the Federal or private sector.

“Newly appointed” is defined in Title 5, CFR § 575.102, and means: the first appointment, regardless of tenure, as an employee of the Federal Government; an appointment of a former employee of the Federal Government following a break in Federal Government service of at least 90 days; or an appointment of an individual in the Federal Government when the individual’s service in the Federal Government during the 90-day period immediately preceding the appointment was limited to one of the situations under § 575.102(3).

The determination and approval to pay a recruitment incentive **must be made before** the individual enters on duty. A recruitment incentive may not be paid or established retroactively.

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).

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.

Approval Criteria: The determination to award a recruitment incentive, and the amount to be paid, must be justified in writing by the appropriate official, **concurred upon by the PHRM or designee**, and must have received higher level approval, if applicable, before the incentive may be paid.

In accordance with Title 5, CFR 575.106(b), the determination to pay a recruitment incentive must be based on, but not limited to, the following factors:

- The success (or lack thereof) of recent efforts to recruit candidates for similar positions, using indicators such as job offer 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. Positions are considered similar if they have similar duties and responsibilities and have a similar level of responsibilities.
- The current non-Federal salary and fringe-benefits package the candidate receives (if applicable);
- Employment trends and competition in the labor market that make it difficult to recruit candidates for similar positions;
- Special qualifications or competencies (i.e., knowledge, skills, abilities, education, etc.) required for the position (or group of positions). These competencies must apply 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.

Group Recruitment Incentives

Recruitment incentives for groups or categories of employees may be targeted and authorized for positions that have been difficult to fill in the past or may be difficult to fill in the future. The establishment of a group recruitment incentive must be based on the approval criteria above. All members of the group must receive a recruitment incentive.

If OPM has granted direct hire authority for a group of positions deemed critical to the organization's mission, then the bureau/OU can determine that the group of positions is likely to be difficult to fill.

Calculating a Recruitment Incentive

Recruitment incentives are calculated as a percentage of the employee's annual rate of basic pay (including a special salary rate and locality pay rate). They generally do not exceed 25 percent 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 4 years.

For example, if an employee is paid 25 percent for 2 years, the total incentive would amount to 50 percent 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 percent (based on a critical bureau/OU need) as long as the total incentive does not exceed 100 percent of the employee's annual rate of basic pay at the beginning of the service period.

VI. RELOCATION INCENTIVES

A relocation incentive is paid to an *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 (i.e., difficulty in recruiting candidates with the competencies required for the position (or group of positions)) without a relocation incentive.

“Employee” is defined in Title 5, CFR § 575.202, and has the meaning given in 5 U.S.C. 2105, as well as an employee described in 5 U.S.C. 2105(c), “a member of a uniformed service.”

An employee **must establish a residence** in the new geographic area before a bureau/OU may pay a relocation incentive.

Approval Criteria: The determination to award a relocation incentive, and the amount to be paid, must be justified in writing by the appropriate official, **concurred upon by the PHRM or designee**, and must have received higher level approval, if applicable, before the individual enters on duty in the position for which relocated.

Relocation incentives may only be paid when the employee’s most recent performance appraisal is at least “Fully Successful” or equivalent.

In accordance with Title 5, CFR § 575.206(b), the determination to pay a relocation incentive must be based on, but not limited to, the following factors:

- 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;
- 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.

Group Relocation Incentives

For relocation incentives, the requirement to make a determination on a case-by-case basis for each employee may be waived when the employee is a member of a group of employees 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.

Determinations regarding groups or categories of employees must be in writing, and must meet the same criteria that apply to individual relocation incentives per Title 5, CFR § 575.208(b).

If OPM has granted direct hire authority for a group of positions deemed critical to the mission of the organization, then the bureau/OU can determine that the group of positions is likely to be difficult to fill.

Different Geographic Area

A different geographic area is defined as one 50 miles or more from the work site 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 prior to receiving a relocation incentive. The bureau/OU may establish its own criteria for evidence, but may consider accepting proof, such as purchasing or renting a place of residence; residing at a residence of a friend or family member; or temporarily residing at a hotel. To be eligible for a relocation incentive, the employee does not need to terminate an existing residence nor physically move their family and/or household goods.

Maintaining a Residence in the New Geographic Area

An employee receiving a relocation incentive must maintain a residence in the new geographic location for the duration of the service agreement. The bureau/OU may require employees to periodically provide proof of their new residence during the agreement, and must terminate a relocation incentive for any employee who fails to maintain residence in the new geographic location throughout the agreement.

Calculating a Relocation Incentive

Relocation incentives are calculated as a percentage of the employee's annual rate of basic pay (including a special salary rate and locality pay rate for the new location). They generally do not exceed 25 percent 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 4 years.

For example, if an employee is paid 25 percent for 2 years, the total incentive would amount to 50 percent of their annual rate of basic pay at the start of the service period.

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

VII. 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 bureau/OU for the employee's services, make it essential to retain the employee, and the employee **would be likely to leave Federal service** in the absence of a retention incentive.

A retention incentive may also be paid to an employee 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.

A retention incentive may *not* be made to recruit an employee from another Federal agency, or from a different bureau/OU in the Department, or to recruit a non-Federal employee.

"Employee" is defined in Title 5, CFR § 575.202, and has the meaning given in 5 U.S.C. 2105, as well as an employee described in 5 U.S.C. 2105(c), "a member of a uniformed service."

"Current" is defined as an individual who is employed with a Department of Commerce bureau/OU.

Approval Criteria: The determination to award a retention incentive, and the amount to be paid, must be justified in writing by the appropriate official, **concurred upon by the PHRM or designee**, and must have received higher level approval, if applicable, before the incentive may be paid.

The determination to pay a retention incentive must 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 as well as the length of the service period must be documented in writing.

Retention incentives may only be paid when the employee's most recent performance appraisal is at least "Fully Successful" or equivalent.

Individual Retention Incentives

In accordance with Title 5, CFR § 575.306 (b), the determination to pay an individual retention incentive must be based on, but not limited to, the following criteria:

- Employment trends and labor market factors. The availability of quality candidates in the labor market with the required competencies, and the ability to 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;
- If the retention incentive is being requested because the employee is likely to leave the Federal Government, cite specific names of organization(s) from which the employee has received an offer, or specific names of organization(s) from which the employee has received interest, and the specific salary being offered by the organization(s);
- If the employee has not received an offer nor an indication of interest from a specific organization, but the bureau/OU has determined that the employee is still likely to leave the Federal Government because they can receive a higher salary in the private sector, the bureau/OU must submit: the salary the employee can be expected to make in the private sector, obtained from a reputable organization such as the Bureau of Labor Statistics or

- Salary.com, and a list of organizations that offer these salaries for that position;
- Written indication that the employee is eligible to voluntarily retire. If the employee is not eligible to voluntarily retire, the bureau/OU must state this in writing;
- A signed statement from the employee or their supervisor that the employee is highly likely to leave the Federal Government or retire (if eligible) without a retention incentive;
- 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 bureau/OU's work;
- Efforts to use non-pay HR flexibilities (e.g., work scheduling options, telework, special training, improved working conditions, etc.) to help retain the employee;
- The desirability of the duties, work or organizational environment, geographic location, etc.
- 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. If a retention incentive is based on the determination that an employee will likely retire if the incentive is not paid, include recruitment and/or succession planning efforts for the position; and
- Other supporting factors.

All requests to pay a retention incentive must address each of the criteria above. If a criterion listed above does not apply in the determination to pay a particular retention incentive, the bureau/OU must document the reason.

Group Retention Incentives

In accordance with Title 5, CFR 575.306(c), determinations for groups or categories of employees must be narrowly defined, in writing, and demonstrate the group or category of employees:

- Has unusually high or unique qualifications, or that there is a special need for the employees' services that make it essential to retain the employees in that category; and
- It is reasonable to presume there is a high risk that a significant number of employees in the group or category of employees are likely to leave Federal service without an incentive.

The bureau/OU must define the targeted group or category of employees using factors that relate to the conditions above. Factors to be considered:

- Occupational series;
- Grade/band level;
- Distinctive job duties;
- Unique competencies required for the position;
- Assignment to a special project;
- Minimum agency service requirements;
- Organization or team designation;
- Geographic location; and
- Required rating of record.

Note: A rating of record by itself is not sufficient to justify a retention incentive; however, it can be used as a supporting factor in authorizing an incentive or setting the incentive rate only as it directly relates to the justification.

If possible, documentation should indicate which workforce sector (private, non-profit, academic, etc.) the group of employees has considered migrating to.

Bureaus/OUTs must provide salaries paid to individuals in comparable positions with similar duties and responsibilities in the non-Federal sectors. They must also provide the name, title, and grade of each person in the retention group.

When requesting a retention incentive for a group or category of employees likely to leave the Department for another Federal position before the closure or relocation of their office, facility, activity, or organization, if possible, provide the Federal agencies the employees are mostly transferring to.

Note: Group retention incentives for a *group of employees likely to leave for another Federal position*, before an office closure, may cover no more than one occupational series.

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 percent 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 percent of the basic pay of each employee in the group or category authorized to receive the incentive.

When an employee is receiving a retained rate of pay, the maximum rate of basic pay for the employee's grade/band is used in lieu of the retained rate for calculating the incentive amount.

A competing "written" salary offer (non-Federal) may be used as documentation in considering the amount of a retention incentive; however, it cannot be the sole basis for the retention incentive, and the written offer should not be more than 90 days old.

Annual Review Requirement

For each retention incentive determination, whether it is subject to a service agreement or not, the bureau/OUT must review the determination to pay the retention incentive at least annually to determine whether the original determination still applies, and whether payment is still warranted as provided by the retention incentive approval criteria above. This determination must be made in writing.

VIII. OPM WAIVER REQUIRED

For incentives above the limitation of DOC's delegated authority (see charts in Section IV (1) and (2)), a waiver to the limitation is required from OPM. In general, these requests should be restricted to instances of unprecedented need by a bureau/OUT. Waiver requests must be submitted by the appropriate PHRM to the Director, OHRM. OHRM will review the request, and upon concurrence, shall submit the request to OPM. Only after receiving a waiver from OPM may the incentive be offered and effected.

Requests for waivers must include the following documents:

For Recruitment or Relocation Incentives

- A thorough and accurate description of the critical bureau/OU need; it must have detailed analysis of how the individual's skills, knowledge, and education fill the stated need;
- The documentation supporting the request as required under 5 CFR §§ 575.108 or 575.208, as applicable;
- The proposed incentive payment amount and justification. The justification should include an explanation of why an incentive of less than 25 percent or 10 percent (for a group or category of employees) cannot be given to the individual;
- The proposed effective date and payment method; and
- The service period required, and any other information pertinent to the request.

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 bureau/OU need;
- The documentation supporting the request as required under 5 CFR § 575.308;
- The proposed retention incentive percentage rate and justification;
- The proposed effective date and payment method;
- The service period required; and
- Any other information pertinent to the request.

IX. PAYMENT METHODS AND LIMITATIONS

Recruitment and Relocation Incentives

May be paid in one of the following ways:

- As an initial lump-sum payment before or at the start of the service period, as described in Title 5, CFR §§ 575.109(a)(1), and 575.209(a)(1), as applicable;
- 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 toward 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;
- As a final lump-sum payment upon completion of the service period; or
- In any combination of the above.

Retention Incentives

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 (see Note below); 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.

Note: 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 compute the payment; but if an employee is in a non-pay status *part of the pay period*, the payment must be prorated based on the basic pay earned.

Rate of Basic Pay

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.

Note: 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.

The 3Rs incentives are **not** part of an employee's rate of basic pay for any purpose, and are not included in lump-sum annual leave payments (Title 5, CFR §§ 575.109(e), 575.209(d), 575.309(h)).

Biweekly Premium Pay and Annual Pay Limitations

Neither the biweekly maximum earnings limitation under Title 5, CFR § 550.105(a) nor the annual premium pay limitation under Title 5, CFR § 550.106(b) apply as the 3Rs incentives are not considered premium pay.

Aggregate Pay Limitation

The 3Rs incentives are subject to the aggregate pay limitation 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, the aggregate compensation actually received during the calendar year would exceed Level I of the Executive Schedule (EX), or the rate payable to the Vice President at the end of the year, whichever is applicable.

Note: Servicing Human Resources Offices (SHRO)/Enterprise Services (ES) should regularly review the incentive authorizations to ensure that an additional paycheck (in years with 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.

Recruitment, relocation, and retention incentives are considered nondiscretionary payments for the purposes of administering the aggregate pay limitation, and should not be deferred prior to deferral of any discretionary payments.

Note: Payments authorized to an employee under a service agreement or preauthorized to be made at a regular fixed rate each pay period are *not* discretionary payments. See the definition of "discretionary payments" under Title 5, CFR § 530.202.

X. SERVICE AGREEMENTS

Before an employee is eligible to receive a recruitment or relocation incentive, they **must** sign a service agreement that includes the following elements:

- Service Period – A specified period of employment with the offering bureau/OU (or successor bureau/OU in the event of a transfer of function).
 - a. Recruitment Incentive – Service period may not be less than 6 months or more than 4 years.
 - b. Relocation Incentive – Service period may not exceed 4 years.
 - c. Retention Incentive – Service period is not mandated by regulations. A service agreement is not required if the incentive is paid in biweekly installments and each biweekly payment is at the full retention incentive rate established for the employee under Title 5, CFR § 575.309(a).

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; it may not exceed 4 years.

- 3Rs Commencement and Termination Dates – The commencement and termination dates for recruitment, relocation, and retention incentives will be determined as follows:
 - a. A recruitment incentive begins upon commencement of service with the bureau/OU, unless the bureau/OU has elected to pay a recruitment incentive prior to an employee entering on duty as outlined in Title 5, CFR § 575.109(d); and must end on the last day of a pay period.
 - b. A relocation incentive begins 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 bureau/OU may pay a relocation incentive. 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/OU or at the new duty station; and end on the last day of a pay period.
 - c. A retention incentive must begin on the first day of a pay period and end on the last day of a pay period.

Note: A start date for a recruitment or relocation incentive may be delayed until the employee completes an initial training period or a required probationary period. However, the service agreement must specify that the bureau/OU 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.

- 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 in the service agreement.
- 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. The conditions for the termination of an incentive agreement are as follows:

Mandatory Terminations. A service agreement must be terminated if an employee (1) is demoted; (2) is separated for cause (for unacceptable performance or conduct); (3) receives a rating of record lower than “Fully Successful” or equivalent; or (4) fails to fulfill the terms of the service agreement.

When an employee fails to fulfill the service agreement terms, they must repay any portion of the incentive attributable to uncompleted service unless waived under the repayment waiver authority. Employees are entitled to may 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/OU. The employee must also repay any incentive payments attributable to uncompleted service. The bureau/OU 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/OU for incentive payments received for uncompleted service, and a reasonable effort has been made to collect the payment from the employee, the bureau/OU is required to recover the amount owed in accordance with established debt collection procedures.

Discretionary Terminations. A service agreement *may* be terminated based on management needs. 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 of such conditions include, but are not limited to, work schedule, type of position, and the duties the employee is expected to perform.

XI. MULTIPLE INCENTIVES

In most instances, the simultaneous/concurrent paying of multiple 3Rs incentives (i.e. recruitment, relocation, and retention) is not allowed. The following are specific restrictions that apply to the paying of simultaneous incentives.

An employee cannot have a:

- *Recruitment incentive service agreement* during an employment period established under a service agreement required for a relocation incentive or 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.

Exception: 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.

XII. DEBT RECOVERY

Bureaus/OUTs shall make a reasonable effort to recover recruitment/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/relocation incentive and fails to reimburse the bureau/OUT 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 used when an employee is unresponsive to reasonable requests by the bureau/OUT to collect the debt. The head of a bureau/OUT (or delegated official) may waive the requirement to repay the debt, if warranted.

Records and Annual Reporting Requirements

The SHROs must maintain thorough and accurate documentation of each determination to pay a 3Rs incentive. All records must be available for review and audit by OHRM and/or OPM. Each record must include:

- A copy of the service agreement (if required);
- The payment schedule for the incentive;
- 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 demonstrate that they meet any required special qualifications; and
- Standard Form (SF)-50, "Notification of Personnel Action," to document the incentive (filed in the employee's Official Personnel Folder).

Reviews

Use of any 3Rs incentive is subject to review by OHRM's Office of Accountability, as well as by OPM and OHRM's Office of Policy and Programs. These reviews may be comprehensive and may 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.