



OFFICE OF THE DIRECTOR

UNITED STATES
OFFICE OF PERSONNEL MANAGEMENT
WASHINGTON, DC 20415-1000

MAY 10 2005

MEMORANDUM FOR HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

FROM:

Dan G. Blair
Acting Director

A handwritten signature in black ink that reads "Dan G. Blair".

SUBJECT:

Recruitment, Relocation, and Retention Incentives

The Office of Personnel Management (OPM) is issuing interim regulations to significantly enhance the recruitment, relocation, and retention payment authorities. (See Attachment 1.) These regulations implement section 101(a) of the Federal Workforce Flexibility Act of 2004 (Public Law 108-411, October 30, 2004), which provides agencies with the flexibility to use these authorities strategically to improve the Federal Government's ability to recruit and retain a high quality workforce. (See CPM 2004-22, November 1, 2004.) The new recruitment, relocation, and retention payment authorities under 5 U.S.C. 5753 and 5754 replace the former recruitment and relocation bonus and retention allowance authorities.

Recruitment, relocation, and retention payments are designed to provide a monetary incentive for an individual or group to accept employment or remain employed in the Federal service in a current position(s). The interim regulations use the term "incentive" in place of "bonus" in order to distinguish these payments from those given to an individual or group to recognize and reward performance.

Effective Date

The interim regulations implementing the new recruitment, relocation, and retention payment authorities are effective immediately upon publication in the *Federal Register*. Agencies must apply these interim regulations for new recruitment, relocation, or retention incentives authorized on or after that date. However, if an individual received a formal offer of a new recruitment, relocation, or retention payment **before** May 1, 2005, the agency may make the payment as long as the terms associated with the offer were consistent with the regulations governing recruitment and relocation bonuses and retention allowances in effect when the offer was made.

Payments Authorized Before May 1, 2005

The law and interim regulations continue provisions for recruitment and relocation bonus service agreements and retention allowances authorized before May 1, 2005. Recruitment and relocation bonus service agreements authorized under 5 U.S.C. 5753 and 5 CFR part 575, subparts A and B, before May 1, 2005, must continue until their expiration, subject to the law and regulations applicable to recruitment and relocation bonuses before May 1, 2005. Also,

agencies must continue to pay retention allowances authorized under 5 U.S.C. 5754 and 5 CFR part 575, subpart C, before May 1, 2005, until the retention allowance is reauthorized or terminated, but not later than April 30, 2006, subject to the law and regulations applicable to retention allowances before May 1, 2005.

Agency Plan

Under the law and interim regulations, agencies must establish a plan for each of the new recruitment, relocation and retention incentive authorities before authorizing any new payments. However, an agency may establish an overall policy for using recruitment, relocation, and retention incentives that addresses the criteria, options, and requirements that apply to all three incentives, but also includes separate plans that provide detailed information on the unique features of each of the recruitment, relocation, and retention incentive authorities. The agency's plans must apply uniformly across the agency, unless the agency head determines otherwise.

Employee Coverage

Under the law and interim regulations, agencies generally may apply the new recruitment, relocation and retention incentive authorities to the same categories of employees covered by the former recruitment and relocation bonus and retention allowance authorities. These categories include employees in General Schedule (GS), senior-level (SL) and scientific or professional (ST), Senior Executive Service (SES), Federal Bureau of Investigation and Drug Enforcement Administration (FBI/DEA) SES, Executive Schedule (EX), law enforcement officer, and prevailing rate positions. Agencies may not pay a recruitment, relocation, or retention incentive under the new authorities to an employee in a position (1) to which an individual is appointed by the President, by and with the advice and consent of the Senate; (2) in the Senior Executive Service as a noncareer appointee (as defined in 5 U.S.C. 3132(a)); (3) excepted from the competitive service by reason of its confidential, policy-determining, policy-making, or policy-advocating nature; (4) to which an individual is appointed by the President without the advice and consent of the Senate; (5) designated as the head of an agency; or (4) in the expectation of receiving an appointment as the head of an agency.

Under 5 U.S.C. 5753(a)(1)(B) and 5754(a)(1)(B), OPM has decided to approve those single-agency categories of employees that were previously approved for coverage under the former recruitment and relocation bonus and retention allowance authorities for coverage under the new incentive authorities, except when otherwise requested by the head of an Executive agency or when such categories are excluded by the new law or interim regulations. The approved employee categories are listed in Attachment 2.

Please notify your OPM Human Capital Officer by May 30, 2005, if you do not want a previously approved employee category in your agency to be covered by the new recruitment, relocation, and retention incentive authorities or if a previously approved employee category in your agency is excluded from coverage by the new law or regulations. The employee categories listed in Attachment 2 are covered by the new recruitment, relocation, and retention incentive authorities unless you notify OPM otherwise or unless the category is excluded by the law or interim regulations. Please contact your OPM Human Capital Officer if you want to request OPM approval of coverage under the new recruitment, relocation, and retention incentive authorities for additional categories of employees within your agency.

Interagency Movements

Section 101 of the Act amended 5 U.S.C. 5753(b) to allow OPM to authorize the head of an agency to pay a recruitment incentive to a current employee who accepts a position (in the same or a different agency) in the same geographic area, when the position is likely to be difficult to fill in the absence of an incentive under circumstances described in OPM's regulations. Similarly, 5 U.S.C. 5754 was amended to allow OPM to authorize the head of an agency to pay a retention incentive to a current employee who would be likely to leave his or her position for a different position in the Federal service in the absence of a retention incentive under conditions described in OPM's regulations. Congress asked OPM to monitor the use of recruitment and retention incentives under these circumstances to ensure that they are an effective use of the Federal Government's funds and do not adversely affect the mission of those Government agencies that lose employees to other agencies.

OPM recognizes the potential for costly and counterproductive interagency competition if agencies are permitted to authorize recruitment and retention incentives to recruit employees to move from other agencies or to retain employees offered positions in other agencies. We have discussed this issue with the Chief Human Capital Officers Council (CHCO) and have agreed that, before we issue regulations providing agencies with such authority, we are inviting comments from interested parties on (1) whether agencies should be permitted to make these payments, and (2) if so, the specific circumstances in which such incentives should be authorized. Therefore, the interim regulations do not provide agencies with the authority to pay interagency recruitment or retention incentives to current employees. We invite interested parties to provide comments on these issues.

Additional Guidance

To assist agencies in administering the new recruitment, relocation, and retention incentive authorities, we are issuing revised fact sheets and examples of calculating recruitment, relocation, and retention incentive payments. The fact sheets and pay examples are available at <http://www.opm.gov/oca/pay/HTML/factindx.asp>. OPM will issue additional guidance as necessary. Instructions for processing recruitment, relocation, and retention incentives will be issued separately. We will also invite agencies to an OPM forum, where we will provide detailed information and practical examples on the application of the new recruitment, relocation, and retention incentive authorities.

Additional Information

For additional information, agency Chief Human Capital Officers and/or Human Resources Directors should contact their assigned OPM Human Capital Officer. Employees should contact their agency human resources office for assistance.

cc: Chief Human Capital Officers
Human Resources Directors

Attachments

**RECRUITMENT, RELOCATION, AND RETENTION INCENTIVES:
COVERAGE OF NON-GENERAL SCHEDULE EMPLOYEES
UNDER SINGLE-AGENCY PAY SYSTEMS**

Upon the request of the head of an Executive agency, OPM may approve coverage under the recruitment, relocation, and retention incentive authorities of one or more categories of non-General Schedule employees in a single agency. (See 5 U.S.C. 5753(a)(1)(B) and 5754(a)(1)(B) and OPM regulations at 5 CFR 575.103(g), 575.203(g), and 575.303(g).) The following list shows the categories of employees approved by OPM under this authority.

Agency	Employees	Original Approval Date
Agriculture	AD (administratively determined) employees paid under 7 U.S.C. 426a, b, and c and appointed under 5 CFR 213.3113(a)(1)	04/27/1995
Commerce	NOAA marine wage employees	10/23/1992
	AD and GG employees (Census Bureau)	05/05/1998
Corporation for National Service	AD employees paid under 42 U.S.C. 12653h(c)(3)	09/15/1993
	Employees under Corporation for National Service alternative personnel system authorized by the National Community Service Trust Act of 1993 (Public Law 103-82)	12/01/1995
Defense	Employees appointed under enabling legislation for National Security Agency, Defense Intelligence Agency, and Civilian Intelligence Personnel Management System	11/17/1991
	Employees appointed under enabling legislation for USNA, Naval War College, Naval Postgraduate School, Army War College, Air Force Institute of Technology, and Air University	12/31/1991
	Navy marine wage employees	06/25/1992
	Faculty and staff of USUHS	10/19/1992
	Employees of section 6 schools	01/15/1993
	Employees under the Department of the Navy's Space and Warfare Command and Naval Air Warfare Center Weapons Division alternative personnel system	05/30/2001

	Professional educators in the Department of Defense Education Activity paid under 20 U.S.C. chapter 29	12/04/2001
	Employees of the Defense Language Institute Foreign Language Center (DLIFLC) Faculty Personnel System covered by 10 U.S.C. 1595	02/18/2005
Energy	Power system dispatchers	01/15/1993
	Wage board employees of the (1) Bonneville Power Administration whose pay is negotiated under the Bonneville Project Act of 1937 (16 U.S.C. 8321); (2) Southwestern Power Administration whose pay is negotiated under the Department of Interior secretarial Order No. 19865, August 31, 1943; and (3) Western Area Power Administration whose pay is negotiated under section 9(b) of Public Law 92-392 and section 704 of Public Law 95-454	01/13/2000
	Scientific, engineering, technical, and professional employees paid under section 621(d) of the Department of Energy Organization Act (pay plan EJ), section 3161 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337) (pay plan EK), and section 3241 of the National Defense Authorization Act for Fiscal year 2000 (Public Law 106-65) (pay plan EN)	05/22/2001
Environmental Protection Agency	Employees appointed to a position under the administratively determined (AD) pay authority established by the Safe Drinking Water Act Amendments (Public Law 95-190, November 16, 1977).	08/21/2002
Education	Senior managers and technical and scientific employees in the Office of Student Financial Assistance Programs appointed and paid under the Higher Education Act of 1998 (Public Law 105-44)	09/30/1999
Health and Human Services	Employees appointed to the Senior Biomedical Research Service under 42 U.S.C. 237	04/20/1999
Interior	Prevailing rate employees whose pay is negotiated under section 9(b) of the Government Employees Prevailing Rate Systems Act, Public Law 92-392, and section 704 of the Civil Service Reform Act, Public Law 95-454	05/04/2001
International Broadcasting Bureau	Non-U.S. citizen employees appointed under 22 U.S.C. 1474(1) and the Smith-Mundt Act (Public Law 80-402). Employees are excepted service paid under chapter 18 of title 22, United States Code (Public Law 101-249, February 16, 1990).	03/24/2003

Justice	U.S. Attorneys, Assistant U.S. Attorneys, U.S. Trustees, and Assistant U.S. Trustees	08/19/1991
	Immigration judges paid under section 371(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996	12/26/1996
Millennium Challenge Corporation	Employees who are paid in accordance with section 617(d) of the Millennium Challenge Act of 2003 (Public Law 108-199, Division D), and who are not among the 30 for which pay is administratively determined under section 617(c) of the Act.	03/24/2004
National Aeronautics and Space Administration	AD employees paid under 42 U.S.C. 2473(c)	09/18/1991
National Science Foundation	Employees appointed under 42 U.S.C. 1864a and 1873(a)	10/22/1991
Overseas Private Investment Corporation	AD employees paid under 22 U.S.C. 2193(d)	08/07/1991
State	Employees appointed under the Foreign Service Act of 1980 and U.N. Participation Act of 1945	09/03/1991
Treasury	National Taxpayer Advocate appointed and compensated under 7803(c)(1)(B) of the Internal Revenue Code of 1986, as amended by section 1102(a) of the Internal Revenue Service Restructuring and Reform Act of 1998	08/08/1998
	Employees appointed and compensated under the streamlined critical pay authority at 5 U.S.C. 9503, as established by section 1201(a) of the Internal Revenue Service Restructuring and Reform Act of 1998	08/08/1998
	Police officers in the Bureau of Engraving and Printing (BEP) and the U.S. Mint paid under 5 U.S.C. 5378	10/19/2000
USAID	Employees appointed under the Foreign Service Act of 1980 and section 625(b) of the Foreign Assistance Act of 1961	07/31/1992
Veterans Affairs	Part-time and temporary positions appointed under 38 U.S.C. 7405 and listed in 38 U.S.C. 7401(1) (i.e., part-time and temporary physicians, dentists, podiatrists, optometrists, nurses, physician assistants, and expanded-function dental auxiliaries)	01/19/2001
	Part-time and temporary hybrid positions appointed under 38 U.S.C. 7405 and listed in 38 U.S.C. 7405(a)(1)(B) (i.e., part-time and temporary certified or registered respiratory therapists,	01/19/2001

	licensed physical therapists, licensed practical/vocational nurses, pharmacists, and occupational therapists) Executive clinical positions appointed under 38 U.S.C. 7306	01/19/2001
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