

U.S. DEPARTMENT OF AGRICULTURE  
WASHINGTON, D.C. 20250

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<b>SUBJECT:</b> Pay Administration – Recruitment, Relocation and Retention Incentives	<b>DATE:</b> June 21, 2010	
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## CHAPTER 1

### GENERAL INFORMATION

#### 1. PURPOSE

The purpose of this directive is to set forth the Department of Agriculture's (USDA) policy on Recruitment, Relocation, and Retention Incentives. This directive constitutes USDA's Recruitment, Relocation, and Retention Incentive Plan.

#### 2. REFERENCES

This directive must be used in conjunction with:

- a. [Title 5, Code of Federal Regulations, Part 575-Recruitment, Relocation and Retention Incentives; Supervisory Differentials; and Extended assignment Incentives, Subparts A-Recruitment Incentives, Subpart B-Relocation Incentives, and Subpart C-Retention Incentives. \(5 CFR 575, subparts A, B, and C\);](#)
- b. [Title 5, United States Code, section 5753 \(5 U.S.C. 5753\);](#) and
- c. [Title 5, U.S.C. 5754.](#)

#### 3. SPECIAL INSTRUCTIONS

This directive replaces Department Manual 4050-575, dated May 28, 2003, and Departmental Notice 4050-575-003, dated April 7, 2009.

#### 4. POLICY

It is USDA's policy to allow delegated officials within Agency and Staff Offices to authorize and approve recruitment and relocation incentives and to recommend retention incentives in accordance with the law and regulations set forth in the directive, as well as the governing regulations identified in Chapter 1, Section 2 of this directive.

#### 5. DELEGATION OF AUTHORITY

- a. The Secretary retains the authority to review and approve payment of recruitment, relocation and retention incentives to employees appointed to a:

- (1) Senior-level or scientific or professional position paid under [5 U.S.C. 5376](#);
  - (2) Senior Executive Service position paid under [5 U.S.C. 5383](#); or
  - (3) Position under the Executive Schedule established under 5 U.S.C. Chapter 5311-5317, or a position for which the rate of pay is fixed by law, at a rate equal to a rate for the Executive Schedule (for example, an employee of the Senior Scientific Research Service SSRS).
- b. The Assistant Secretary for Administration (ASA) retains the authority to review and approve payment of retention incentive to a:
- (1) General Schedule position as defined under [5 U.S.C. 5332](#) or [5305](#) (or similar special rate authority);
  - (2) Prevailing rate (wage) position as defined under [5 U.S.C. 5342\(a\)\(3\)](#); or
  - (3) Law Enforcement Officer position as defined in [5 CFR 550-103](#);

The overall authority, or a portion thereof, may be redelegated to the Director, Office of Human Resources Management (OHRM), at the sole discretion of the ASA.

- c. Agency and Staff Office Heads are delegated the authority to review and approve payment of recruitment and relocation incentives, consistent with existing statutes, to employees appointed to a:
- (1) General Schedule position as defined under [5 U.S.C. 5332](#) or [5305](#) (or similar special rate authority);
  - (2) Prevailing rate (wage) position as defined under [5 U.S.C. 5342\(a\)\(3\)](#); or
  - (3) Law Enforcement Officer position as defined in [5 CFR 550-103](#);

Agency and Staff Office Heads may re-delegate this authority to their Deputy Administrator Management and/or their Mission Area Human Resources Director.

- d. At the discretion of the Director, OHRM, or designee, the delegations of authorities made under this directive may be revoked at any time where violations of this and other governing policies are discovered. The delegation of authority will be reinstated by the Director, OHRM, or designee, when the Agency or Staff Office puts the appropriate management controls in place to correct the violation.

## 6. EXCLUSIONS FROM COVERAGE

An Agency or Staff Office may not pay a recruitment, relocation, or retention incentive to an employee in a position:

- a. To which they are appointed by the President, by and with the advice and consent of the Senate;
- b. In the Senior Executive Service as a noncareer appointee (as defined in [5 U.S.C. 3132\(a\)\(7\)](#));
- c. Excepted from the competitive service by reason of its confidential, policy-determining, policy-making, or policy-advocating character; or
- d. Not otherwise covered by the exclusions in paragraphs a, b, and c of this Section:
  - (1) To which an individual is appointed by the President without the advice and consent of the Senate;
  - (2) Designated as the head of USDA; or
  - (3) In which the employee is expected to receive an appointment as the head of USDA.

## 7. DEFINITIONS

- a. Agency. An organizational unit of USDA, other than a Staff Office as defined below, whose head reports to an Under Secretary.
- b. Agency Head. The head of a USDA agency or an official who has been delegated the authority to act for the head of the agency in the matter concerned.
- c. Competencies. The knowledge, skills, abilities, behaviors, and other characteristics an individual needs to perform the duties of a position.
- d. Different Geographic Area. For the purpose of paying a relocation incentive a move to a different geographic area means that the worksite of the new position is 50 or more miles from the worksite of the position held before the move or where a waiver of the 50-mile requirement is approved under Chapter 2, Section 1, of this directive, means less than 50 miles from the worksite of the position held before the move if the employee must relocate to accept the position.

- e. Employee. An employee that has the meaning given in [5 U.S.C. 2105](#), except that the term also includes an employee described in [5 U.S.C. 2105\(c\)](#). Additionally, for the purpose of a:
- (1) Recruitment incentive also includes an employee described in [5 U.S.C. 2105\(e\)](#). Employee means an individual not yet employed who has received a written offer to be newly appointed or reappointed and has signed the written service agreement before payment of the incentive.
  - (2) Relocation incentive also includes an employee who is appointed without a break in service to a position in a different geographic area or whose duty station has changed permanently or temporarily to a different commuting area, assuming all other conditions in Chapter 2 are met.
- f. Employee of the Federal Government. An employee (as that term is defined in 5 U.S.C. 2105, except that the term also includes an employee described in 5 U.S.C. 2105 (c) and (e)) of any part of the Government of the United States (which includes the United States Postal Service and the Postal Rate Commission).
- g. Newly Appointed. For the purpose of paying a recruitment incentive:
- (1) The first appointment, regardless of tenure, as an employee of the Federal Government; or
  - (2) An appointment of a former employee of the Federal Government following a break in service of at least 90 days; or
  - (3) An appointment as an employee of the Federal Government when the employee's Federal service during the 90-day period immediately preceding the appointment was limited to one or more of the following:
    - (a) A time-limited or non-permanent appointment in the competitive or excepted service;
    - (b) A non-permanent appointment (excluding a Schedule C appointment under [5 CFR part 213](#)) in the competitive or excepted service;
    - (c) Employment with the government of the District of Columbia (DC) when the candidate was first appointed by the DC government on or after October 1, 1987;
    - (d) An appointment as an expert or consultant under [5 U.S.C. 3109](#) and 5 CFR part 304;
    - (e) Employment under a provisional appointment designated under

[5 CFR 316.403](#); or

- (f) Employment under the Student Career Experience Program under [5 CFR 213.3202\(b\)](#).
- h. Rate of Basic Pay. The rate of pay fixed by law or administrative action for the position to which an employee is or will be appointed before deduction and including any special rate under [5 CFR part 530](#), Subpart C, or similar payment under other legal authority, and any locality-based comparability payment under [5 CFR part 532](#), Subpart F, or similar payment under other legal authority, but excluding additional pay of any other kind. For example, a rate of basic pay does not include additional pay such as night or environmental differentials.
- i. Service Agreement. A written agreement between a USDA Agency or Staff Office and an employee under which the employee agrees to a specified period of employment with the Agency or Staff Office in return for payment of an incentive.
- j. Staff Office. A USDA administrative office whose head reports to the Secretary.
- k. Staff Office Head. The Head of a Staff Office or an official who has been delegated the authority to act for the Head of the Staff Office in the matter concerned.

## 8. RESPONSIBILITIES

- a. The Secretary is responsible for:
  - (1) Reviewing and approving payment of recruitment, relocation and retention incentives paid to employees as outlined in Section 5 a of this directive.
- b. The ASA is responsible for:
  - (1) Reviewing and approving retention incentives as outlined under Section 5 b of this directive.
  - (2) Redelegating the authority, if applicable, as outlined in Section 5 b of this directive.
- c. The Director, OHRM is responsible for:
  - (1) Establishing USDA's recruitment, relocation and retention incentive policy and providing technical assistance and advice on issues that arise;

- (2) Monitoring Agency and Staff Office compliance with USDA's policy;
  - (3) Requesting ASA approvals under Chapter 1, Section 5 b of this directive made at the request of an Agency or Staff Office;
  - (4) Requesting OPM waivers based upon critical Agency or Staff Office need made at the request of an Agency or Staff Office; and
  - (5) Reporting to the Office of Personnel Management (OPM) as required.
- d. Agency and Staff Office Heads are responsible for:
- (1) Approving recruitment and relocation incentives, where authorized, in writing;
  - (2) Requesting approval of retention incentives, where authorized, in writing;
  - (3) Establishing written policy and procedures that address how recruitment, relocation, and retention incentive determinations will be made in their individual Agency or Staff Office;
  - (4) Ensuring that recruitment, relocation and retention incentive determinations within their Agency or Staff Offices are made or requested in accordance with the requirements set forth in this directive;
  - (5) Monitoring and assessing the program; and
  - (6) Reporting to OHRM, as requested.

## CHAPTER 2

### RECRUITMENT AND RELOCATION INCENTIVES

#### 1. REQUIREMENTS

- a. Each determination to pay a recruitment or relocation incentive shall be:
  - (1) Reviewed and approved by an official of the Agency or Staff Office who is at a higher level than the recommending official, unless there is no official at a higher level;
  - (2) Based on a written determination that, in the absence of such an incentive, the Agency or Staff Office would encounter difficulty in filling the position with a high quality candidate;
  - (3) Made before or after the recruitment or vacancy announcement takes place, but prior to the employee entering on duty; and
  - (4) Considered in addition to any decision made to reimburse employees for relocation expenses under the General Service Administration's Federal Travel Regulations
- b. When necessary to make a timely offer of employment, Agency or Staff Office Heads may establish criteria, in advance, based on identification of qualifications typically possessed by high quality candidates for a specific position or other similar positions and authorize the recommending official to offer a recruitment incentive (in an amount within a pre-established range) to any high quality candidate without further review or approval.
- e. In determining which employees may receive a recruitment incentive, an Agency or Staff Office may target groups of positions that have been difficult to fill in the past or that may be difficult to fill in the future, and may make the required written determination to offer a recruitment incentive on a group basis. Relocation incentives must generally be made on a case-by-case basis.
- f. Relocation incentives can only be paid to an employee whose new position is not in the same geographic area as the worksite of the position held immediately before the move. A position is considered to be in a different geographic area if the worksite of the new position is 50 or more miles from the worksite of the position held immediately before the move. If the worksite of the new position is less than 50 miles from the worksite of the position held immediately before the move, but the employee must relocate (i.e., establish a new residence) to accept the position, a waiver may be granted by the Agency or Staff Office using the authority in [5 CFR 575.205\(b\)](#). In all cases, the employee must establish a

residence in the new geographic area before the Agency or Staff Office may pay a relocation incentive to the employee.

- g. A relocation incentive may be paid only when the employee's rating of record (or an official performance appraisal or evaluation under a system not covered by 5 U.S.C. chapter 43 or [5 CFR part 430](#)) for the position held immediately before the move is at least "fully successful" or equivalent.
- h. In determining whether a recruitment or relocation incentive should be paid and the amount to be paid, an Agency or Staff Office shall consider the following factors, as applicable in the case at hand:
  - (1) The availability and quality of candidates possessing the competencies required for the position, including the success of recent efforts to recruit high quality candidates for similar positions, using indicators such as offer acceptance rates, the proportion of positions filled, and the length of time required to fill similar positions;
  - (2) Recent turnover in similar positions;
  - (3) Labor-market factors that may affect the ability of the Agency or Staff Office to recruit high quality internal or external candidates from similar positions now or in the future (may include such factors as salary ranges of comparable positions, scarcity of skills, emerging technology, etc.);
  - (4) Special or unique competencies required for the position;
  - (5) For recruitment incentives, the practicality of using the superior qualifications appointment authority provided by 5 U.S.C. 5333 and 5 [CFR 531.203](#)(b) or a student loan repayment authority prescribed by 5 U.S.C. 5379 or 5 CRR 537 alone or in combination with a recruitment incentive;
  - (6) Funding availability;
  - (7) Positive and negative impacts on the morale of current employees;
  - (8) For incentives for temporary relocations, whether it would be more cost-effective to pay per diem for a detail;
  - (9) Attractiveness of the duty station in such terms as remoteness, cost of living, community amenities, etc.;
  - (10) Agency or staff office efforts to use non-pay authorities, such as special training and work scheduling flexibilities, to resolve difficulties alone or in combination with a recruitment incentive;

- (11) The desirability of the duties, work or organizational environment, or geographic location of the position;
- (12) The urgency of filling the position;
- (13) The salaries typically paid outside the Federal Government for similar positions;
- (14) The approved use of a direct hire authority by OPM; and
- (15) Other supporting factors as the Agency or Staff Office may determine appropriate.

## 2. PAYMENT OF RECRUITMENT AND RELOCATION INCENTIVES

- a. An Agency or Staff Office may pay a recruitment or relocation incentive:
  - (1) As an initial lump-sum payment at the commencement of the service period required by the service agreement or before the employee enters on duty once the employee has signed a service agreement established under this plan;
  - (2) In installments throughout the service period required by the service agreement;
  - (3) As a final lump-sum payment upon the completion of the full service period required by the service agreement; or
  - (4) In a combination of these methods.
- b. The total amount of a recruitment or relocation incentive paid to an employee in a service period may not exceed 25 percent of the annual rate of basic pay of the employee at the beginning of the service period multiplied by the number of years (including fractions of a year) in the service period (not to exceed 4 years).
  - (1) For hourly rate employees who do not have a scheduled annual rate of basic pay, compute the annual rate required under this paragraph by multiplying the applicable hourly rate in effect at the beginning of the service period by 2087 hours.
  - (2) For the purpose of determining the number of years in a service period under this paragraph, divide the total number of calendar days in the service period by 365 and round the result to two decimal places. For

example, a service period covering 39 biweekly pay period equals 546 days, and 546 days divided by 365 days equals 1.50 years.

- c. At the written request of an Agency or Staff Office, OHRM may request that OPM waive the limitation set out in paragraph b of this Section. The written request must demonstrate that the competencies required for the position are critical to the successful accomplishment of an important agency or staff office mission, project, or initiative (e.g., programs or projects related to a national emergency or implementing a new law or critical management initiative). Under such a waiver, the total amount of the incentive paid to an employee in a service period may not exceed 50 percent of the annual rate of basic pay of the employee at the beginning of the service period multiplied by the number of years (including fractions of a year) in the service period. In no case may a waiver provide total incentive payments exceeding 100 percent of the employee's annual rate of basic pay at the beginning of the service period. Waiver requests must include the following:
- (1) A description of the critical Agency or Staff Office need that the proposed incentive would address;
  - (2) The basis for determining that a position is likely to be difficult to fill in the absence of an incentive;
  - (3) The basis for authorizing an incentive;
  - (4) The basis for the amount and timing of the approved incentive payment;
  - (5) The length of the required service period;
  - (6) In the case of a relocation incentive, that the worksite of the employee's new position is not in the same geographic area as the worksite of the position held immediately before the move (or that a waiver was approved and that the employee has established a residence in the new geographic area); and
  - (7) Any other information pertinent to the case at hand.
- d. An Agency or Staff Office may not pay a relocation incentive until the employee establishes a residence in the new geographic area.
- e. An Agency or Staff Office may pay a recruitment incentive to an individual not yet employed who has received a written offer of employment and signed a written service agreement.
- f. A recruitment or relocation incentive is not part of an employee's rate of basic pay for any purpose.

- g. Payment of a recruitment or relocation incentive is subject to the aggregate limitation on pay under [5 CFR part 530](#), subpart B.

### 3 SERVICE AGREEMENTS

- a. Before a recruitment or relocation incentive may be paid, the employee must sign a written service agreement to complete a specified number of months of employment in the agency offering the incentive or the successor Agency or Staff Office in the event of a transfer of function.
- b. The minimum period of employment that may be established under a service agreement for an incentive shall be 6 months and shall not exceed four years.
- c. An Agency or Staff Office may delay a service agreement commencement date until after the employee completes an initial period of formal training or required probationary period when continued employment in the position is contingent on successful completion of the formal training or probationary period. The Agency or Staff Office must make the determination to pay an incentive before the employee enters on duty in the position. However, the service agreement must specify that if an employee does not successfully complete the training or probationary period before the service period commences, that Agency or Staff Office is not obligated to pay any portion of the incentive to the employee.
- d. Service under one service agreement will run concurrently with service under any other simultaneous or subsequent service agreements in effect.
- e. An Agency or Staff Office may not commence a relocation incentive service agreement during the service agreement period of a previously authorized relocation incentive service agreement.
- f. An Agency or Staff Office may commence a relocation incentive service agreement during a service period established by an employee's previously authorized retention incentive service agreement or while an employee received previously authorized retention incentive payments without a service agreement.
- g. An Agency or Staff Office may not commence a recruitment incentive service agreement while an employee receives retention incentive payments without a service agreement or during the service period established by an employee's relocation or retention incentive service agreement.
- h. Except as specified in c above, the required service period must begin upon the commencement of service with the Agency or Staff Office.
- i. The service period must end on the last day of a pay period.

- j. The service agreement must specify the total amount of the incentive, the method of paying the incentive, and the timing and amounts of each incentive.
- k. The service agreement must include the conditions under which the Agency or Staff Office must terminate the service agreement. Reasons include:
  - (1) If the employee is demoted or separated for cause;
  - (2) If the employee receives a rating of record of less than fully successful or equivalent; and
  - (3) If the employee otherwise fails to fulfill the terms of the service agreement.
- l. The service agreement must include the conditions under which the employee must repay a recruitment or relocation incentive as specified in this plan.
- m. The service agreement may include any other terms or conditions, including discretionary reasons in Section 4 of this Chapter that, if violated, will result in termination of the service agreement. For example, the service agreement may specify the employee's work schedule, type of position, and the duties he or she is expected to perform. In addition, the service agreement may address the extent to which the period of time on detail, in a non pay status, or in a paid leave status are creditable towards the completion of the service period.
- n. Annually, as long as conditions giving rise to a determination to pay a group recruitment incentive still exist, the determination to pay the incentive must be reviewed and recertified by the Agency or Staff Office.

#### 4 REPAYMENT OF RECRUITMENT AND RELOCATION INCENTIVES

- a. An Agency or Staff Office may unilaterally terminate a recruitment or relocation incentive service agreement based solely on the management needs of the Agency or Staff Office. For example, an Agency or Staff Office may terminate a service agreement when the employee's position is affected by a reduction in force, when there are insufficient funds to continue the planned incentive payments, or when the agency assigns the employee to a different position, if the different position is not within the terms of the service agreement.
- b. An authorized Agency or Staff Office official must terminate a recruitment or relocation incentive service agreement if an employee is demoted or separated for cause (i.e., for unacceptable performance or conduct), if the employee receives a rating of record (or an official performance appraisal or evaluation under a system not covered by 5 U.S.C., chapter 43 or [5 CFR part 430](#)) of less than fully

successful or equivalent, or if the employee otherwise fails to fulfill the terms of the service agreement.

- c. If a service agreement is terminated under paragraph a of this Section, the employee is entitled to all recruitment or relocation incentive payments that are attributable to completed service and to retain any portion of an incentive payment he or she received that is attributable to uncompleted service.
- d. If a service agreement is terminated under paragraph b of this Section, the employee is entitled to retain recruitment or relocation incentives previously paid by the agency that are attributable to the completed portion of the service period. If the employee received recruitment or relocation incentive payments that are less than the amount that would be attributable to the completed portion of the service period, the agency is not obligated to pay the employee the amount attributable to completed service, unless the agency agreed to such payment under the terms of the recruitment or relocation incentive service agreement. If the employee received recruitment or relocation incentive payments in excess of the amount that would be attributable to the completed portion of the service period, he or she must repay the excess amount. The full amount of the authorized incentive must be prorated across the length of the service period to determine the amount attributable to completed service and uncompleted service. Exception: When the employee is separated as a result of material false or inaccurate statements or deception or fraud in examination or appointment, or as a result of failure to meet employment qualifications, the employee must repay all recruitment incentives received under that service agreement.
- e. If an employee fails to reimburse the paying agency for the full amount owed under paragraph d of this Section, the amount outstanding must be recovered from the employee under the agency's regulations for collection by offset from an indebted Government employee under [5 U.S.C. 5514](#) and [5 CFR part 550](#), Subpart K, or through the appropriate provision governing Federal debt collection if the individual is no longer a Federal employee.
- f. The right of recovery of an employee's debt may be waived in whole or in part by the Agency or Staff Office Head if he or she determines that recovery would be against equity and good conscience or against public interest.
- g. When an employee is promoted or reassigned to a position with greater promotion potential in another USDA Agency or Staff Office, the service agreement will be transferred with the employee and no repayment will be required by the USDA agency which initiated the bonus and any subsequent payments due the employee will be the responsibility of the new hiring Agency or Staff Office. Employees that subsequently fail to complete the remainder of the service agreement and are subject to the requirements of paragraph d of this Section will be indebted to the agency that actually made the payment that is recoverable.

- h. The termination of a service agreement is not grievable or appealable.
- i. The agency must notify an employee in writing when it terminates a recruitment or relocation incentive.

## 5 EVALUATION AND REPORTS

- a. OHRM will conduct periodic review and evaluations of the use of recruitment and relocation incentives to ensure that the payment of the incentives conform to the criteria established under this directive. Agency and Staff Offices must periodically evaluate the use of recruitment and relocation incentives within their respective Agencies and Staff Offices.
- b. As requested by OHRM, each Agency and Staff Office must submit a written report to OHRM on their use of the authority. Requests made by OHRM will specify all required information.
- c. Agencies and Staff Offices must keep a record of each determination to grant recruitment or relocation incentives and make these records available for review upon request.

## 6 PROCEDURES, RECORDS AND FORMS

- a. Each determination to pay a recruitment or relocation incentive will be documented on form [AD-1073](#). A copy of the determination will be maintained and made available for review upon request.
- b. Service agreements made in connection with recruitment and relocation incentives will be documented on form [AD-1074](#). A copy of the service agreement will be placed on the left side of the Official Personnel Folder for the period of time specified in the service agreement. A second copy will be attached to the AD-1073, Recommendation and Approval of a Recruitment/Relocation/Retention Incentive.

## CHAPTER 3

### RETENTION INCENTIVES

#### 1 REQUIREMENTS

- a. Each determination to pay a retention incentive shall be:
- (1) Approved by the ASA unless redelegated under Chapter 1, Section 5 b of this directive;
  - (2) Submitted to the ASA for approval, at least, 30 days in advance of the proposed effective date;
  - (3) Recommended by an official of the Agency or Staff Office who is at a higher level than the requesting official, unless there is no official at a higher level;
  - (4) Authorized only for current employees;
  - (5) Based on a written determination that the unusually high or unique qualifications (i.e., competencies) of the employee or a special need of the Agency or Staff Office for the employee's services make it essential to retain the employee and that, in the absence of such an incentive, the employee would be likely to leave the Federal Service (except as provided in Section 3 of this Chapter);
  - (6) Based on a written description of the extent to which the employee's departure would affect the Agency or Staff Office's ability to carry out an activity or perform a function that is deemed essential to their mission;
- b. Except as provided in paragraph c of this Section, an Agency or Staff Office may seek approval to pay a retention incentive to a group or category of employees under the conditions prescribed in this Chapter when they determine that:
- (1) The unusually high or unique qualifications (i.e., competencies) of the group or category of employees, or a special need of the Agency or Staff Office for the employees' services, makes it essential to retain the employees in that group or category; and
  - (2) There is high risk that a significant number of the employees in the group would be likely to leave the Federal service in the absence of a retention incentive.
- c. An Agency or Staff Office may not include in a group retention incentive authorization, an employee covered by [5 CFR 575.303](#)(b), (c), (e) or those in

similar categories of positions approved by OPM to receive retention incentives under [5 CFR 575.303\(g\)](#).

- d. A retention incentive may be paid only when the employee's rating or record (or an official performance appraisal or evaluation under a system not covered by 5 U.S.C. chapter 43 or [5 CFR part 430](#)) is at least "fully successful" or equivalent.
- e. In determining whether a retention incentive should be paid, and in determining the amount of any such payment, an Agency or Staff Office shall consider the following factors, as applicable in the case at hand:
  - (1) Employment trends and labor market factors such as the availability and quality of candidates in the labor market possessing the competencies required for the position and who, with minimal training, cost, or disruption of service to the public could perform the full range of duties and responsibilities of the employee's position at the level performed by the employee;
  - (2) The success of recent efforts to recruit candidates and retain employees with competencies similar to those possessed by the employee for positions similar to the position held by the employee;
  - (3) Special or unique competencies required for the position;
  - (4) Agency or Staff Office efforts to use non-pay authorities to help retain the employee instead of or in addition to a retention incentive such as:
    - (a) Special training;
    - (b) Work scheduling flexibilities; or
    - (c) Improving working conditions;
  - (5) The desirability of the duties, work or organizational environment, or geographic location of the position;
  - (6) The extent to which the employee's departure would affect the Agency or Staff Office's ability to carry out an activity, perform a function, or complete a project that the Agency or Staff Office deems essential to its mission;
  - (7) The salaries typically paid outside the Federal Government; and
  - (8) Other supporting factors as the Agency or Staff Office may determine appropriate.

- f. In determining whether a retention incentive should be paid for a group or category of employees and in determining the amount of any such payment, an Agency or Staff Office will consider the factors as listed in both b and e of this Section.

## 2 PAYMENT OF A RETENTION INCENTIVE

- a. A retention incentive will be calculated as a percentage of the individual employee's rate of basic pay not to exceed 25 percent for an individual employee or 10 percent for a group or category of employees.
- b. An Agency or Staff Office may request to pay a retention incentive:
  - (1) In installments after the completion of specified periods of service; or
  - (2) As a single lump-sum payment after completion of the full service period.
- c. A retention incentive may not be paid in advance of fulfilling the service agreement period.
- d. At the written request of an Agency or Staff Office and with the concurrence of the ASA, OHRM may request that OPM waive the limitation set out in paragraph a, of this Section, based on critical need. The waiver can permit the agency to pay an individual employee or group of employees a retention incentive of up to 50 percent of the employee's basic pay. In addition to the determination required by Section 8, an Agency or Staff Office must determine that the employee's (or group of employee's) usually high or unique qualifications (i.e., competencies) are critical to the successful accomplishment of an important Agency or Staff Office mission, project, or initiative (e.g., programs or projects related to a national emergency or implementing a new law or critical management initiative). Waiver requests must include the following:
  - (1) 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;
  - (2) A description of the critical Agency or Staff Office need the proposed retention incentive would address;
  - (3) Documentation supporting the finding of paragraph d of this section;
  - (4) The proposed retention incentive percentage rate and a justification for that percentage;

- (5) The timing and method making the retention incentive payments;
  - (6) The service period required; and
  - (7) Any other information pertinent to the case at hand.
- e. Payment of a retention incentive is subject to the aggregate limitation on pay under [5 CFR part 530](#), subpart B.
  - f. A retention incentive is not part of employee's rate of basic pay for any purpose.

### 3 SPECIAL PROVISIONS FOR PAYMENT OF A RETENTION INCENTIVE TO A CURRENT FEDERAL EMPLOYEE

- a. An Agency or Staff Office may request approval to pay a retention incentive to a current employee if they determine:
  - (1) The Agency or Staff Office has a special need for the employee's services that makes it essential to retain the employee in his or her current position during a period of time before the closure or relocation of the employee's office, facility, activity, or organization, given the Agency or Staff Office's mission requirements and the employee's competencies;
  - (2) The employee would be likely to leave for a different position in the Federal service in the absence of a retention incentive. For the purpose of this section, a different position in the Federal service is defined as within USDA from one Agency and/or Staff Office to another as well as outside USDA; and
  - (3) Other conditions set out in this Chapter and as required by [5 CFR 575.315](#) are met.
- e. Agencies or Staff Offices may request approval of a retention incentive under this circumstance for a group or category of employees if:
  - (1) There is a high risk that a significant number of the employees in the group would be likely to leave for different positions in the Federal service in the absence of a retention incentive;
  - (2) The Agency or Staff Office has a special need for the employees' services that makes it essential to retain the employees in their current position during a period of time before the closure or relocation of the employees' office, facility, activity, or organization, given the Agency or Staff Office's mission requirements and the employee's competencies; and

- (3) Other conditions set out in this Chapter and as required by [5 CFR 575.315](#) are met.

#### 4 SERVICE AGREEMENTS

- a. Before a retention incentive may be paid, the employee, except as provided in paragraph e of this Section, including each employee covered by a group retention incentive authorization and any employee who may receive a higher retention incentive as a result of an approved waiver of the maximum limit on the amount of a retention incentive, must sign a written service agreement to complete a specified period of employment with the Agency or Staff Office (or successor Agency or Staff Office in the event of a transfer of function).
- b. Agencies or Staff Offices are responsible for determining and requesting the length of the service period in their requests for approval. There is no minimum or maximum amount of time required.
- c. The service agreement must include the commencement and termination dates of the required service period. The service period must begin on the first day of a pay period and end on the last day of a pay period.
- d. The agreement must specify:
  - (1) The percentage rate;
  - (2) Whether the incentive will be paid in installments or in a lump-sum payment upon completion of the service period provided in the service agreement;
  - (3) Whether any installment payments will be paid at less than the full retention incentive percentage rate with the accrued but unpaid incentive payment being paid in a lump-sum upon completion of the full service period required by the service agreement;
  - (4) The timing of the incentive payment(s);
  - (5) The conditions under which the Agency or Staff Office must terminate the service agreement before the employee completes the agreed upon service period;
  - (6) The effect of a termination, including the conditions under which the Agency or Staff Office will pay an additional retention incentive payment for partially completed service; and

- (7) Any other terms or conditions that, if violated, will result in a termination of the agreement.
- e. Written service agreements are not required if the Agency or Staff Office:
  - (1) Pays the retention incentive in biweekly installments; and
  - (2) Sets each biweekly installment payable at the full retention incentive percentage rate established for the employee under Section 2, a of this Chapter.
- f. An Agency or Staff Office may not commence a retention incentive service agreement (or begin paying a retention incentive) during a period of employment established under any service agreement required for payment of a recruitment incentive.
- g. After a retention incentive service agreement has commenced (or retention incentive payments have commenced), an Agency or Staff Office may pay a relocation incentive.

## 5 CONTINUATION, REDUCTION OR TERMINATION OF A RETENTION INCENTIVE

- a. An Agency or Staff Office may unilaterally terminate a retention incentive service agreement based solely on the management needs of the Agency or Staff Office. For example, an Agency or Staff Office may terminate a service agreement when the employee's position is affected by a reduction in force, when there are insufficient funds to continue the planned retention incentive payments, when conditions no longer warrant payment at the level originally approved or at all, or when the Agency or Staff Office assigns the employee to a different position, if the different position is not within the terms of the service agreement.
- b. A service agreement must be terminated if the employee is demoted or separated for cause (i.e., for unacceptable performance or conduct), if the employee received a rating of record (or an official performance appraisal or evaluation under a system not covered by 5 U.S.C. chapter 43 or [5 CFR part 430](#)) of less than "Fully Successful" or equivalent, or if the employee otherwise fails to fulfill the terms of the service agreement.
- c. The termination of a service agreement is not grievable or appealable.
- d. The agency must notify an employee in writing when it terminates a retention incentive service agreement.

- e. If an Agency or Staff Office terminates a service agreement under paragraph a of this section, the employee is entitled to retain any retention incentive payments that are attributable to completed service and to receive any portion or a retention incentive payment owed by the Agency or Staff Office for completed service.
- f. If an Agency or Staff Office terminates a service agreement under paragraph b of this section, the employee is entitled to retain retention incentive payments previously paid by the Agency or Staff Office that are attributable to the completed portion of the service period. If the employee received retention incentive payments that are less than the amount that would be attributable to the completed portion of the service period, the agency is not obligated to pay the employee the amount attributable to completed service, unless the Agency or Staff Office agreed to such payment under the terms of the retention incentive service agreement.
- g. Annually, as long as the conditions giving rise to the original determination to pay a retention incentive still exist, each determination to pay an incentive will be reviewed and recertified by the Agency or Staff Office, and re-approval gained from the ASA, if it is determined the payment is still warranted. Requests for re-approval must be submitted at least 60 days prior to the expiration of the current incentive.
- h. Agencies or Staff Offices must reduce or terminate a retention incentive authorization when no service agreement is required whenever payment at the level originally approved is no longer warranted. An Agency, Staff Office, or the ASA may consider the following factors in determining whether to reduce or terminate a retention incentive:
  - (1) Whether a lesser amount (or none at all) would be sufficient to retain the employee (or group or category of employees);
  - (2) Whether labor-market factors make it more likely (or reasonably likely) to recruit a candidate with competencies similar to those possessed by the employee (or group or category of employees);
  - (3) Whether the Agency or Staff Office's need for the services of the employee (or group or category of employees) has been reduced to a level that makes it unnecessary to continue payment at the level originally approved (or at all);
  - (4) Whether budgetary considerations make it difficult to continue payment at the level originally approved (or at all); or
  - (5) Other supporting factors as applicable to the case at hand.

- i. Agencies and Staff Offices must terminate a retention incentive authorization when no service agreement is required if the employee is demoted or separated for cause (i.e., for unacceptable performance or conduct), the employee receives a rating of record (or an official performance appraisal or evaluation under a system not covered by 5 U.S.C. chapter 43 or [5 CFR part 430](#)) of less than “Fully Successful” or equivalent, or the agency assigns the employee to different position.
- j. The termination or reduction of a retention incentive is not grievable or appealable under law or regulation.
- k. If a retention incentive is terminated or reduced under paragraph h of this Section, the Agency or Staff Office must notify the employee in writing. The employee is entitled to receive any scheduled incentive payments through the end of the pay period in which the written notice is provided or until the date of separation, if sooner.
- l. Because retention incentives are always paid prospective, there should be no need for repayment of a retention incentive.

## 6 EVALUATION AND REPORTS

- a. OHRM will conduct periodic review and evaluations of the use of retention incentives to ensure that the payment of the incentives conform to the criteria established under this directive. Agency and Staff Offices must periodically evaluate the use of retention incentives within their respective Agencies and Staff Offices.
- b. As requested by OHRM, each Agency and Staff Office must submit a written report to OHRM on their use of the authority. Requests made by OHRM will specify all required information.
- c. Agencies and Staff Offices must keep a record of each determination to grant retention incentives and make these records available for review upon request.

## 7 PROCEDURES, RECORDS AND FORMS

- a. Each determination to pay a retention incentive will be requested and documented on form [AD-1073](#). A copy of the determination will be maintained by the Agency or Staff Office and made available for review upon request.
- b. Service agreements made in connection with retention incentives will be documented on form [AD-1074](#). A copy of the service agreement will be placed

on the left side of the Official Personnel Folder for the period of time specified in the service agreement. A second copy will be attached to the AD-1073, Recommendation and Approval of a Recruitment/Relocation/Retention Incentive.

- c. A written notice of each retention incentive authorization will be provided to the employee involved in those cases where service agreements are not required. It will contain the percentage of salary, the expected duration of the allowance and specific dates covered, and provisions regarding early termination or reduction of the retention allowance.