

Human Resources Manual

Instruction 575-1: Recruitment, Relocation and Retention Incentives

Date Issued:

RECRUITMENT, RELOCATION, AND RETENTION (3Rs) INCENTIVE POLICY

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575-1-10 PURPOSE AND AUTHORITY

A. Purpose: This Instruction is promulgated in accordance with the U.S. Office of Personnel Management (OPM) regulations found at 5 C.F.R. pt. 575, subparts A-C governing recruitment, relocation, and retention incentives. It incorporates revisions to the regulations up to and effective as of September 13, 2013. As required, the Department has established this plan to govern the use of this incentive authority by its divisions.

B. Authority: This Instruction is authorized by:

1. Section 101 of the Federal Workforce Flexibility Act of 2004
2. 5 U.S.C. § 5753-54
3. 5 C.F.R. pts. 530 and 575

575-1-20 COVERAGE AND EXCLUSIONS

A. Coverage: Employees appointed or placed in the following categories or positions are eligible to receive recruitment, relocation, and retention incentives: General Schedule (GS); senior-level (SL) or scientific or professional (ST) position paid under 5 U.S.C.

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§ 5376; Senior Executive Service (SES) paid under 5 U.S.C. § 5383 as career appointees; law enforcement officers (LEOs); Executive Schedule paid under 5 U.S.C. § 5311-17; prevailing rate positions; certain employees appointed under Title 42 of the U.S. Code; positions for which a waiver for an incentive greater than 25 percent has been approved by OPM; or any other position in a category for which payment of an incentive has been approved by OPM at the request of the head of the employing agency, or for which OPM has extended eligibility, such as the Senior Biomedical Research Service (SBRs).

B. Exclusions: The following types of employees are excluded from receiving incentives for recruitment, relocation, and retention.

1. Employees in positions to which the individuals are appointed by the President, either by and with the advice and consent of the Senate or without the advice and consent of the Senate.
2. Employees in positions in the Senior Executive Service as noncareer appointees (as defined in 5 U.S.C. § 3132(a)(7)).
3. Employees in positions excepted from the competitive service by reason of their confidential, policy-determining, policy-making, or policy-advocating nature.
4. Members of the Public Health Service Commissioned Corps.
5. Agency heads or those expected to receive an appointment as an agency head (i.e., those appointed to other positions in anticipation of subsequent approval to be appointed as the agency head).
6. Employees appointed pursuant to Title 42 of the U.S. Code, except 42 U.S.C. § 209(f)-(g) appointees, members of the SBRs, and other employees to the extent permitted by laws, regulations, and governing authorities. (AAOs are encouraged to confer with OHR to verify which Title 42 employees are eligible.)

575-1-30 DEFINITIONS

- A. Recruitment Incentive:** An incentive paid to a newly appointed employee if it has been determined that the position is critical to the mission of the organization and is likely to be difficult to fill in the absence of such an incentive.

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- B. Relocation Incentive:** An incentive paid to a current federal employee who must relocate to accept a position in a different geographic area (at least 50 miles or more) if it has been determined that the position is critical to the mission of the organization and is likely to be difficult to fill in the absence of such an incentive. Although the payment of relocation incentives is payable only to current federal employees, relocation allowances or “expenses” may be paid to current or newly appointed employees in accordance with General Services Administration, Federal Travel Regulation, Chapter 302, Relocation Allowances.
- C. Retention Incentive:** An incentive paid to a current federal employee if it is determined the unusually high or unique qualifications of the employee or a special need of the organization for the employee’s services in a position critical to the mission of the organization make it essential to retain the employee, and the employee would be likely to leave the federal service in the absence of a retention incentive. An incentive is also allowable to retain an employee or group of employees when a general or specific notice of closure or relocation has been announced and they are essential to retain for mission requirements and are likely to leave for a different position in the federal service in the absence of a retention incentive.
- D. Newly Appointed Employee**
1. An individual receiving his or her first appointment, regardless of tenure, as an employee of the federal government.
 2. An appointment of a former employee of the federal government following a break in federal government service of at least 90 days from a previous appointment.
 3. To the extent not otherwise excluded an appointment when the employee’s federal service during the 90 day period immediately preceding the appointment was not in a position excluded by 5 C.F.R. § 575.104 and was limited to one or more of the following:
 - a. A time-limited or nonpermanent appointment in the competitive or excepted service.
 - b. Employment with the Washington, D.C. government when the candidate was appointed to that position on or after October 1, 1987.
 - c. Appointment as an expert or consultant under 5 U.S.C. § 3109 and 5 C.F.R. pt. 304.

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- d. A provisional appointment.
 - e. Employment under an Internship Program pursuant to 5 C.F.R. § 213.3402(a).
 - f. Employment as an SES limited appointee or limited emergency appointee (as defined in 5 U.S.C. § 3132(a)(5)-(6)).
 - g. Certain nonappropriated fund employees—e.g., an employee in a nonappropriated fund instrumentality (NAFI) position meeting the definition of a prevailing rate position in 5 U.S.C. § 5342(a)(3) as long as the position is not otherwise excluded by 5 C.F.R. § 575.104, 575.204, and 575.304 and if appointment in the position to which the incentive is being granted occurs after at least a 90-day break in federal service. (AAOs are encouraged to confer with OHR to verify if an NAFI employee is an eligible recipient.)
- E. Authorized Agency Official (AAO):** As provided in the Department’s delegation of authority, the OpDiv or StaffDiv head or an official to whom the division head has redelegated the authority, in writing. Except in cases where the OpDiv or StaffDiv head is the immediate supervisor of the employee receiving the incentive, at all times the AAO must occupy a position that is at least one level higher in the organizational hierarchy than the immediate supervisor of the employee receiving the incentive.
- F. Rate of Basic Pay:** Rate of pay fixed by law or administrative action for the position to which an employee will be appointed before deductions and including any special rate or locality pay. This does not include pay of any other kind such as night or environmental differentials, or Physicians’ Comparability Allowance (PCA). Incentive payments are not a component of basic pay for any purpose.
- G. Aggregate Pay Limitations:** Unless otherwise permitted by statute, regulation, or other governing authority, for GS and SBRS employees, payment of these incentives is subject to the aggregate limitation on pay in a calendar year, which may not exceed the rate of pay of Level I of the Executive Schedule (5 C.F.R. § 530.202). For SES, SL, and ST employees, payment of these incentives is subject to the aggregate limitation on pay in a calendar year, which may not exceed the rate payable to the Vice President at the end of the calendar year. (Note: Whenever certification of HHS’s SES performance management system is pending OPM approval, SES employees are limited to the aggregate limitation on pay in a calendar year that may not exceed the rate of pay of Level I of the Executive Schedule).

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- H. Service Agreement:** Unless otherwise provided by these Instructions, a written agreement that must be signed by an employee prior to receiving payment of any amount related to an incentive under this Instruction 5 C.F.R. pt. 575, subparts A-C that requires completion of a specified period of employment. (Note: All incentives that require OPM approval, as explained in this Instruction and applicable sections of 5 C.F.R. pt. 575, subparts A-C, must have a service agreement.)
- I. Service Period Limitations:** The period of service required for an agreement approving a recruitment or relocation incentive cannot be less than six months nor more than four years. If a service agreement has already exceeded the four-year time period, it shall terminate at the end of that current fiscal year. (Note: A service agreement is not necessary for biweekly retention incentive payments, unless the incentive is one that required approval of a waiver request by OPM.) Service periods begin on the first day of a pay period and end on the last day of a pay period.

575-1-40 RESPONSIBILITIES

The following officials and offices are responsible for administering this policy in accordance with the appropriate statutes and regulations.

A. ASA, Office of Human Resources (OHR)

The OHR is responsible for:

1. Updating and maintaining this policy.
2. Preparing and submitting periodic reports regarding usage of 3Rs incentives including the annual 3Rs report to OPM.
3. Monitoring the use of these incentives to ensure that payments are consistent with the requirements of this policy.
4. Publishing specific criteria applicable to documenting position criticality to the organization.
5. Reviewing and approving 3Rs waivers greater than 25 and up to 50 percent and submitting the request to OPM for final authorization.

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B. Operating Divisions (OpDivs) and Staff Divisions (StaffDivs)

OpDivs and StaffDivs are responsible for:

1. Providing oversight as it relates to determining whether an employee meets the statutory requirements for receiving a recruitment, relocation, or retention incentive.
2. Ensuring that all AAOs have a written delegation of authority addressing the extent and limitations, if any, of powers applicable to the 3Rs incentives program.
3. Documenting the criteria used for determining the amount of an incentive payment, method of payment, length of a required service period, or termination of a service agreement.
4. Ensuring this policy is applied in a consistent manner when determining the length of service agreements for employees in similar circumstances.
5. Submitting all required documentation for authorization and payment of any incentive to their operating human resources center in order to assure regulatory and policy requirements are met prior to authorization of payment.
6. Recovering payments from an employee when payments attributable to an incentive create an indebtedness to the OpDiv or StaffDiv.
7. For multiyear service agreements, reviewing and certifying annually in writing on the service agreement that the recipient of the incentive continues to meet all requirements therein and continued payment of the incentive is within the division's budgetary appropriations.
8. Notifying incentive recipients in writing whenever the incentive is terminated.

C. Operating Human Resources Centers:

Each operating human resources center is responsible for:

1. Establishing and maintaining documentation and records containing the justification and service agreement, if applicable, for each issuance of an incentive payment and making such documentation available for review and analysis upon request by the OHR or OPM.
2. Ensuring compliance with regulatory and policy requirements prior to processing the incentive request for payment.

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3. Providing input to OHR, as required, for periodic or annual reporting requirements in the use of these incentives as required for accountability purposes.

575-1-50 RECRUITMENT INCENTIVES AND SERVICE AGREEMENTS

- A.** An AAO may approve recruitment incentives paid under this policy for a newly appointed employee to a position that is critical to the mission of the organization and is likely to be difficult to fill without an incentive. Determinations to pay the incentive must be made and approved before the prospective employee enters on duty. Recruitment incentives are not retroactive and cannot be granted or approved after the employee enters on duty.
- B.** Prior to receiving any payment attributable to the recruitment incentive, the employee must sign an agreement to complete a required service period of not less than six months and no more than four years of employment with the OpDiv or StaffDiv, or a successor organization in the event of a transfer of function.
- C.** An AAO may approve recruitment incentives up to 25 percent of an employee's annual rate of basic pay at the beginning of the service period.
- D.** An AAO will determine the percentage of the recruitment incentive based on one or more of the criteria listed in paragraph H of this section. The approved amount, up to 25 percent, will be multiplied by the number of years (including fractions of a year) in the service period not to exceed four years.
- E.** OPM may waive the 25 percent limitation on recruitment incentives based upon a critical agency need and set the limitation up to 50 percent of an employee's annual rate of pay at the beginning of a service period multiplied by the number of years (including fractions of a year) in the service period not to exceed two years. In no event should the employee's total recruitment incentive exceed 100 percent of the employee's annual rate of pay at the beginning of the service period. An AAO will submit requests for waiver, through the OpDiv or StaffDiv head or designee, to the Deputy Assistant Secretary for Human Resources. Each waiver request must provide the information prescribed in 5 C.F.R. § 575.109(c)(2).
- F.** For group recruitment incentives only.

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1. An AAO may target groups of similar positions identified as difficult to fill, establish criteria in advance for offering recruitment incentives to all newly appointed employees in the target groups, and authorize an official who is not lower than a candidate's supervisor to discuss a potential recruitment incentive (in any amount within a preestablished range) to a candidate. Group incentives may not be paid to employees in SL, ST, or SBRS positions, employees appointed as SES noncareer employees, employees in Executive Schedule positions, or employees in similar categories for which payment of recruitment incentives has been approved by OPM.
 2. The targeted group of employees must be defined using factors that relate to the conditions described in paragraph H of this section. Factors that may be appropriate include: occupational series, grade level, distinctive job duties, unique competencies required for the position, and geographic location.
 3. AAOs must review the decision to target a group of similar positions for the purpose of granting a recruitment incentive and certify, in writing, that the targeted positions are still likely to be difficult to fill. If the AAO determines the positions are no longer likely to be difficult to fill, the OpDiv or StaffDiv must terminate the recruitment incentive to the newly appointed employees in that group on a group basis.
- G.** Recruitment incentives must be approved by an AAO who is at least one level higher in the organization's hierarchy than the employee's (or group of employees') supervisor unless there is no higher level in the OpDiv or StaffDiv.
- H.** In determining whether to grant a recruitment incentive, the AAO must consider:
1. Availability and quality of candidates possessing the competencies required for the position, including the success of recent efforts to recruit candidates for the position or similar position using indicators such as offer-acceptance rates, proportion of positions filled, and the length of time required to fill similar positions.
 2. Salaries typically paid outside the federal government for similar positions.
 3. Recent turnover in similar positions.
 4. Employment trends and labor market factors that may affect the organization's ability to recruit candidates for similar positions.

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5. Special or unique competencies required for the position.
6. Organization efforts to use nonpay authorities, such as special training and work scheduling flexibilities, to resolve difficulties alone or in combination with a recruitment incentive.
7. Desirability of the duties, work or organizational environment, or geographic location of the position.
8. Other supporting factors.

Positions may be considered to meet the eligibility criteria listed above if OPM has approved the use of a direct-hire authority for the position (or group of positions) under 5 C.F.R. pt. 337, subpart B.

- I.** Each determination to pay a recruitment incentive must be documented. The written justification should include the determination that the position is likely to be difficult to fill in the absence of the incentive; the supporting factors used to authorize the incentive; the reasons for determining the amount and timing of the payments; and the reasons for determining the length of the service period.
- J.** The OpDiv or StaffDiv will pay recruitment incentives as specified in the employee's service agreement. The incentives may be paid by any of the following methods:
 1. In a lump sum at the beginning of the service period stated in the agreement.
 2. In equal or variable installment payments throughout the service period.
 3. As a final lump-sum payment at the end of the specified service period.
- K.** The recruitment incentive (either as a lump sum or as the first of a series of installment payments) may be paid to an employee who has not yet reported to duty once he or she has signed a service agreement.
- L.** Service agreements for recruitment incentives must contain:
 1. The period of service (in months and years) agreed to by the employee and the total amount authorized for payment.

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2. The actual beginning and ending dates of the service period. The service period must commence on the first day of an employee's service with the organization and end on the last day of a pay period—except when the employee:
 - a. Begins work other than the first day of the pay period, the service period will begin on the first day of the next pay period. If the first day of a pay period is a holiday, the effective date of the employee's appointment and other paperwork is the Tuesday immediately following the holiday.
 - b. Is required to complete a probationary period or an initial period of formal training, the employee's service period may be delayed until the beginning of the pay period following the completion of the probationary or training period. Because the AAO must approve the recruitment incentive before the employee enters on duty, the service agreement also must specify that there is no obligation to pay any portion of the incentive if the employee does not successfully complete the probationary period or training.
3. The method of payment and, if paid in installments, the date and amount of each installment payment.
4. The conditions under which the AAO must terminate the agreement (i.e., if an employee is demoted or separated for cause, receives a rating of record of less than "Fully Satisfactory" or equivalent, or otherwise fails to fulfill the terms of the service agreement).
5. The terms or conditions that may result in termination of the service agreement (e.g., insufficient funds, reassignment to a different type of position, or any additional terms that, if violated by the employee, will result in termination of the agreement. If there are any such additional terms, they must be stated in the agreement.) See 5 C.F.R. § 575.110-11
6. The extent to which periods of time on detail, in a nonpay status, or in a paid leave status are creditable towards completion of the service period.
7. The consequence of both voluntary and management decisions to terminate service agreements (e.g., conditions under which the employee must repay any unearned portion of the incentive he or she may already have received).
8. A statement that the decision to terminate a service agreement may not be grieved or appealed.

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- M. AAOs must terminate recruitment incentives as warranted, ensure that payments are appropriately made or recovered when necessary, and the employee notified of the decision to terminate as provided in this subsection.
1. Agreements must terminate when an employee is demoted or separated for cause, receives a less than “Fully Successful” or equivalent rating of record, or otherwise fails to fulfill the terms of the service agreement.
 2. Agreements may be unilaterally terminated based solely upon management needs such as reduction-in-force or insufficient funds.
 3. An employee who fails to fulfill the service agreement is entitled only to payments that have already been received up to the amount attributable to completed service, unless the agreement states otherwise. If the AAO unilaterally terminates the service agreement based solely upon management needs prior to the service period completion date, the employee is entitled to all incentive payments already received and any additional payments, if necessary, to provide payment in the amount attributable to completed service.
 4. Employees must reimburse the Department the sum of all benefits received under a service agreement that is in excess of the amount attributable to completed service. In the event an employee fails to reimburse the Department for amounts owed, the outstanding amount shall be recovered from the employee under regulations for collection by offset from an indebted government employee under 5 U.S.C. § 5514, 5 C.F.R. pt. 550, subpart K, and 45 C.F.R. § 33.1 *et seq.*
 5. An employee must repay all payments attributable to a recruitment incentive when the service agreement is terminated due to an employee’s separation resulting from materially false or inaccurate statements, deception, or fraud in examination or appointment; or as a result of failing to meet employment qualifications.
 6. In accordance with 5 U.S.C. § 5373(g) and 5 C.F.R. § 575.111(h), an AAO may waive recovery of the amount in excess of that attributable to completed service, if in the AAO’s judgment, collection would be against equity and good conscience and not in the best interest of the United States. Under no circumstances can a waiver be granted when an employee is separated because of materially false or inaccurate statements, deception, or fraud in examination or appointment as prescribed in paragraph 5 of this subsection. Payments for which collection is waived are deemed to be a valid.

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7. The AAO must notify an employee in writing when the service agreement is terminated.
 8. Employees cannot grieve or appeal any decision to terminate the service agreement.
- N.** Recruitment incentives are not a component of an employee's rate of basic pay for any purpose.
- O.** Pursuant to 5 C.F.R. § 575.105(c), a recruitment incentive cannot commence during a period of employment established under any service agreement required for a:
1. Relocation incentive authorized in accordance with this Instruction and 5 C.F.R. pt. 575, subpart B.
 2. Retention incentive for which an employee receives payments with or without a service agreement authorized under this Instruction and 5 C.F.R. pt. 575, subpart C.

575-1-60 RELOCATION INCENTIVE AND SERVICE AGREEMENTS

- A.** An AAO may approve relocation incentives paid under this policy to a current federal employee who, without a break in service, must relocate to accept a position in a different geographic area, as defined in 5 C.F.R. § 575.205(b), that is mission critical and likely to be difficult to fill without such an incentive. Relocation incentives are not retroactive and cannot be granted or approved after the employee enters on duty in the position in the new geographic area for which the incentive is being authorized.
- B.** The relocation incentive is payable only if the employee provides proof of residency in the new geographic area and maintains residency in the new geographic area for the entire service period as established by the agreement.
- C.** An AAO may approve relocation incentives whether the relocation is permanent or temporary.
- D.** Prior to receiving any payment attributable to the relocation incentive, the employee must sign an agreement to complete a service period of not less than six months and no more than four years of employment with the OpDiv or StaffDiv, or successor organization in the event of a transfer of function, at the new duty station.
- E.** An AAO may approve relocation incentives up to 25 percent of an employee's annual rate of basic pay at the beginning of the service.

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- F.** The AAO will determine the percentage of the relocation incentive based on one or more of the criteria listed in paragraph K of this section. The approved percentage will be multiplied by the number of years (including fractions of a year) in the service period not to exceed four years.
- G.** In accordance with 5 C.F.R. § 575.209(c)(1), OPM may waive the 25 percent limitation on relocation incentives based on a critical agency need and set the limitation up to 50 percent of an employee's annual rate of pay at the beginning of a service period multiplied by the number of years (including fractions of a year) in the service period not to exceed two years. In no event should the employee's total relocation incentive exceed 100 percent of the employee's annual rate of pay at the beginning of the service period. AAOs will submit requests for waiver, through the OpDiv or StaffDiv head, to the Deputy Assistant Secretary for Human Resources. Each waiver request will provide the information prescribed in 5 C.F.R. § 575.209(c)(2).
- H.** To be eligible for a relocation incentive, the employee must have a rating of record of at least "Fully Successful" or equivalent for the position held immediately before the move.
- I.** For group relocation incentives only.
 - 1. An AAO may waive the requirement to make case-by-case determinations and approve group relocation incentives under the following conditions:
 - a. The employee is a member of a group of employees subject to a mobility agreement and relocation incentives are necessary to retain the group of employees to ensure continuation of operations.
 - b. A major organizational unit is relocated to a new duty station and the relocation incentives will ensure continued operations of that unit without undue disruption to operations or functions deemed essential to the division's mission.
 - 2. Decisions to approve a waiver for a group incentive must be supported by written determinations that specify the group of covered employees, the conditions under which the waiver is approved, and the period of time for which the waiver may be applied.

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J. Relocation incentives must be approved by an AAO who is at least one level higher in the organization's hierarchy than the employee's (or group of employees') supervisor unless there is no higher level in the OpDiv or StaffDiv.

K. In determining whether to grant an incentive, the AAO must consider:

1. Availability and quality of candidates possessing the competencies required for the position, including the success of recent 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.
2. Salaries typically paid outside the federal government for similar positions.
3. Recent turnover in similar positions.
4. Employment trends and labor market factors that may affect the organization's ability to recruit candidates for similar positions.
5. Special or unique competencies required for the position.
6. Organization efforts to use nonpay authorities, such as special training and work scheduling flexibilities, to resolve difficulties alone or in combination with a recruitment incentive.
7. Desirability of the duties, work or organizational environment, or geographic location of the position.
8. Other supporting factors.

Positions may be considered to meet the eligibility criteria above if OPM has approved the use of a direct-hire authority for the position (or group of positions) under 5 C.F.R. pt. 337, subpart B.

L. Each determination to pay a relocation incentive must be documented. The written justification must include:

1. The basis for determining that a position is likely to be difficult to fill based upon the factors enumerated in paragraph K of this section.
2. The basis for authorizing the incentive for an employee.

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3. The basis for the total amount of the incentive.
 4. The basis for the timing of the approved incentive payments.
 5. The basis for the length of the required service period.
 6. Affirmation that the employee's new position is in a different geographic area—i.e., the worksite of the new position is located 50 miles or more from the worksite of the position held immediately before the move or affirmation that the 50-mile requirement was waived and justification for the waiver.
 7. Affirmation that the employee established a residence in the new geographic area.
- M.** The OpDiv or StaffDiv will pay relocation incentives as specified in the employee's service agreement. The incentives may be paid by any of the following methods:
1. In a lump sum at the beginning of the service period stated in the agreement.
 2. In equal or variable installment payments throughout the service period.
 3. As a final lump-sum payment at the end of the specified service period.
- N.** Service agreements for relocation incentives must contain the following information:
1. Definition of the boundaries of the new geographic area to which the employee must relocate.
 2. Statement that the employee is required to maintain residency in the new geographic area for the duration of the service period established in the agreement.
 3. The period of service (in months and years) agreed to by the employee and the total amount authorized for payment.
 4. The actual beginning and ending dates of the service period. The service period must begin on the first day of an employee's service date at the new duty station and end on the last day of a pay period—except if the employee:
 - a. Begins work other than on the first day of the pay period, the service period will commence on the first day of the next pay period. If the first day of a pay period is a holiday, the effective date of the employee's appointment and other paperwork is the Tuesday immediately following the holiday.

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- b. Is required to complete an initial period of formal training or probationary period, the employee's service period may be delayed until the beginning of the pay period following the completion of the training or probationary period. Because the AAO must approve the relocation incentive before the employee enters on duty at the new duty station, the service agreement also must specify that there is no obligation to pay any portion of the incentive if the employee does not successfully complete the probationary period or training.
 5. The method of payment. If paid in installments, the date and amount of each installment payment.
 6. The conditions under which the AAO must terminate the agreement (i.e., if an employee is demoted or separated for cause, receives a rating of record of less than "Fully Successful" or equivalent, otherwise fails to fulfill the terms of the service agreement, or fails to maintain residency throughout the service period required by the agreement).
 7. The terms or conditions that may result in termination of the service agreement (e.g., insufficient funds, reassignment to a different type of position, or any additional terms that if violated by the employee will result in termination of the agreement).
 8. The extent to which periods of time on detail, or in a nonpay or paid leave status is creditable toward completion of the service period.
 9. The consequence of both voluntary and management decisions to terminate service agreements (e.g., conditions under which the employee must repay any unearned portion of the incentive he or she may already have received).
 10. A statement that the decision to terminate a service agreement may not be grieved or appealed.
- O.** AAOs must terminate relocation incentives as warranted, ensure that payments are appropriately made or recovered when necessary, and the employee notified of the decision to terminate the incentive as provided in this subsection.
1. Agreements must terminate when an employee is demoted or separated for cause, receives a less than "Fully Successful" or equivalent rating of record, otherwise fails to fulfill the terms of the service agreement, or fails to maintain residency in the new geographic area at any point during the service period established by the agreement. Under these circumstances, the employee is entitled to retain relocation

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incentive payments previously paid by the OpDiv or StaffDiv that are attributable to the completed service period.

2. Agreements may be unilaterally terminated based solely upon management needs such as reduction-in-force or insufficient funds. Under these circumstances, an employee is entitled to all relocation incentive payments attributable to completed service and to retain any portion of the incentive payment he or she has already received that is attributable to uncompleted service.
 3. In accordance with 5 C.F.R. § 575.211(f), the OpDiv or StaffDiv is not obligated to pay any amount not yet received by the employee that is attributable to completed service, unless the division agreed to do so in the service agreement. But if the employee received relocation incentive payments in excess of the amount that is attributable to the completed portion of the service period, he or she must repay the excess amount.
 4. To determine the amount attributable to completed service versus the amount that cannot be attributed to completed service, the total amount of the authorized relocation incentive must be prorated across the length of the service period. 5 C.F.R. § 575.211(i).
 5. In the event that an employee fails to reimburse the Department for amounts owed, the outstanding amount will be recovered from the employee under regulations for collection by offset from an indebted government employee under 5 U.S.C. § 5514, 5 C.F.R. pt. 550, subpart K, and 45 C.F.R. § 33.1 *et seq.*
 6. In accordance with 5 U.S.C. § 5373(g) and 5 C.F.R. § 575.211(h), an AAO may waive recovery of the amount in excess of the amount attributable to completed service if in the AAO's judgment, collection would be against equity and good conscience and not in the best interests of the United States. Payments for which collection is waived are deemed to be a valid payment.
 7. The AAO must notify the employee in writing when a service agreement is terminated.
 8. Employees cannot grieve or appeal any decision to terminate the service agreement.
- P.** Relocation incentives are not a component of an employee's rate of basic pay for any purpose.

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- Q.** In accordance with 5 C.F.R. § 575.206(d), an OpDiv or StaffDiv may not commence a relocation incentive service agreement during a period of employment established under any service agreement required for a:
1. Recruitment incentive authorized under this Instruction and 5 C.F.R. pt. 575, subpart A.
 2. Relocation incentive previously authorized under this Instruction and 5 C.F.R. pt. 575, subpart B.
- R.** A relocation incentive service agreement may commence during a period of employment established under a service agreement for a previously authorized retention incentive or for which an employee is receiving previously authorized retention incentive payments without a service agreement pursuant to this Instruction and 5 C.F.R. pt. 575, subpart C. The service period for such a relocation incentive service agreement and the service period required by the previously authorized retention incentive service agreement must be fulfilled concurrently. 5 C.F.R. § 575.206(e). (Note: This is the only circumstance for which simultaneous payments of multiple incentives or concurrent service agreements authorized pursuant to this Instruction and 5 C.F.R. pt. 575, subparts A-C is permissible.)

575-1-70 RETENTION INCENTIVE AND SERVICE AGREEMENTS

- A.** An AAO may approve a retention incentive paid under this Instruction to an individual employee who has unusually high or unique qualifications or when the organization has a special need for the employee's services that makes it essential to retain the employee and the employee would be likely to leave federal service in the absence of an incentive. An AAO may approve a retention incentive to a group of employees with unusually high or unique qualifications or when a special need for the employees' service makes it essential to retain the employees in that group and there is a 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. Group retention incentives cannot be paid to employees in SL, ST, or Executive Schedule positions, or SBRS employees in similar categories for which payment of retention incentives has been approved by OPM.
- B.** It is not intended that OpDivs and StaffDivs will use retention incentives as a long-term staffing flexibility. Instead, the organization should have in place an effective succession plan for leadership and nonleadership positions, detailing its strategy to

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eventually eliminate or reduce the need for the use of a retention incentive. Succession plans:

1. Must discuss the quality and availability of potential sources of employees who possess the competencies required for the position and who, with minimal training, cost, and 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 incumbent.
2. May include future recruitment and training efforts, any changes in the distribution of workflow, the effectiveness of processes or measures that have been considered to retain the employee's services without paying the incentives.

AAOs should ensure that succession plans are used to alleviate the need for long-term use of retention incentives.

- C.** AAOs must review, at least annually, all retention incentives, including those administered without a service agreement, against the factors enumerated in paragraph K of this section and certify in writing the decision to pay an incentive—thereby confirming that circumstances still warrant continued payment.
- D.** An AAO cannot approve a retention incentive prior to an individual's employment with the OpDiv or StaffDiv.
- E.** Prior to receiving any payment attributable to the retention incentive, the employee may be required to sign a service agreement for a specified period of employment with the OpDiv or StaffDiv, or a successor organization in the event of a transfer of function. Service agreements are not required for retention incentives paid in biweekly installments if the biweekly installments are set at the full retention incentive percentage rate established for the employee. But all retention incentives that require approval of a waiver by OPM must have a service agreement—there are no exceptions for this category of retention incentives.
- F.** An employee is eligible to receive an individual or participate in a group incentive only if the employee's rating of record (or an official performance appraisal or evaluation under a system not covered by 5 U.S.C. ch. 43 or 5 C.F.R. pt. 430) is at least "Fully Successful" or equivalent.
- G.** Individual retention incentives may be up to 25 percent of an employee's rate of basic pay. Group retention incentives may be up to 10 percent of an employee's rate of basic

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pay unless the OpDiv or StaffDiv seeks a waiver in accordance with the provisions of paragraph H of this section.

- H.** In accordance with 5 C.F.R. § 575.309(e)(1), OPM may waive the limitations on retention incentives and set the limitation up to 50 percent of an employee's annual rate of pay based upon a critical agency need. Requests must be based upon determinations that the employee's (or group of employees') unusually high or unique qualifications are critical to the successful accomplishment of an important mission or project (e.g., programs or projects related to a national emergency or projects implementing a new law). AAOs will submit requests for waiver, through the OpDiv or StaffDiv head, to the Deputy Assistant Secretary for Human Resources or designee. Each waiver request will provide the information prescribed in 5 C.F.R. § 575.309(e)(2).
- I.** The AAO determines the percentage of the retention incentive, individual or group, based upon one or more of the criteria listed in paragraph K of this section.
- J.** Retention incentives must be approved by an AAO who is at least one level higher in the organizational hierarchy than the employee's (or group of employees') supervisor unless there is no higher level in the OpDiv or StaffDiv.
- K.** In determining whether to grant a retention incentive, the AAO must consider:
 - 1. Objective need for retaining the services of the particular employee or group of employees.
 - a. Quality and availability of potential sources of employees who possess the competencies required for the position and who, with minimal training, cost, and 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 incumbent.
 - b. 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.
 - c. 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.
 - d. Special or unique competencies required for the position.

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- e. Efforts to use nonpay authorities to help retain the employee in lieu of or in addition to a retention incentive, such as special training and work scheduling flexibilities or improving working conditions.
 - f. Desirability of the duties, work or organizational environment, or geographic location of the position.
 - g. Extent to which the employee's departure would impair the organization's ability to carry out an activity, perform a function, or complete a project that the OpDiv or StaffDiv deems essential to its mission.
 - h. Salaries typically paid outside of the federal government.
 - i. Other supporting factors, including the strategies outlined in the organization's succession plan for addressing the recruitment needs of the position.
2. Basis for determining the likelihood that the employee would leave federal service—the belief that the employee may leave federal service if a retention incentive is not granted must be justifiable. Examples include a bona fide offer of employment or an affidavit signed by the employee attesting to a bona fide offer of employment, indicating the position and salary being offered, the name and location of the prospective employer, and the anticipated start date for the new position.

L. For group retention incentives only.

1. The AAO must consider the factors enumerated in paragraph K of this section as they relate to a group of employees—
 - a. With unusually high or unique qualifications or that the division has a special need for the employees' services that make it essential to retain the employees in the group.
 - b. That it is reasonable to presume that there is a high risk that a significant number of employees in the targeted group would be likely to leave federal service in the absence of a retention incentive.
2. Before authorizing a group incentive, the AAO must narrowly define the targeted group using factors that relate to the conditions described in paragraph (1) of this subsection. Appropriate factors may include: occupational series, grade level,

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distinctive job duties, unique competencies required for the position, assignment to a special project, minimum service requirements, organization or team designation, geographic location, required record of rating, and any other factors deemed essential by the organization.

M. Each decision to pay a retention incentive must be documented. The written justification must include:

1. The basis for determining that the unusually high or unique qualifications of the employee (or group of employees) or a special need of the agency for the employee's (or group of employees) services makes it essential to retain the employee(s).
2. The basis for determining that the individual employee or a significant number of a targeted group of employees would be likely to leave the federal service in the absence of a retention incentive.
3. The basis for establishing the amount of the retention incentive.
4. The basis for establishing the timing of the approved retention incentive payment.
5. The basis for establishing the length of the service period.

N. Retention incentives may be paid in a single lump-sum payment after the completion of the full service period, in installments after the completion of specified periods of service, or in biweekly payments.

1. AAOs may not approve the payment of a retention incentive as an initial lump-sum payment at the start of a service period or as an installment paid in advance.
2. Single lump-sum payments paid upon completion of the service period are derived by multiplying the retention incentive percentage rate established for the employee (or group of employees) by the total basic pay earned by the employee during the full service period.
3. An installment payment is derived by multiplying the rate of basic pay the employee earns in the installment period by the percentage established for the employee by the AAO.
4. Installments may be paid after the completion of specified periods of service using variable percentages for each installment. If this method is used, the organization

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must pay the accrued but unpaid portion of the retention incentive as part of the final payment upon completion of the service agreement.

5. Service agreements are not required for retention incentives paid in biweekly installments unless the incentive is granted under the provisions of paragraph H of this section or the employee received a reduced percentage for each installment made prior to the final payment.
- O.** Service agreements required for retention incentives must contain the following:
1. The period of service (in months and years) and total amount of the incentive agreed to by the employee.
 2. The actual beginning and ending dates of the service period. The service period must begin on the first day of a pay period and terminate on the last day of a pay period.
 3. The retention incentive percentage rate, the method of payment, and if paid in installments, the method of installment payments (i.e., equal percentage rates or reduced percentage rates per installment with a final lump-sum payment of the accrued but unpaid amount of the incentive).
 4. The conditions under which the AAO must terminate the service agreement (i.e., if an employee is demoted or separated for cause, receives a rating of record of less than “Fully Successful” or equivalent, otherwise fails to fulfill the terms of the service agreement, or when conditions change such that the original determination to pay the retention incentive no longer applies).
 5. The terms or conditions that may result in termination of the service agreement (e.g., insufficient funds, reassignment to a different type of position, or any additional terms that if violated by the employee will result in termination of the agreement).
 6. The consequence of both voluntary and management decisions to terminate service agreements (e.g., conditions under which the employee must repay any unearned portion of the incentive he or she may already have received).
 7. Employees cannot grieve or appeal any decision to terminate payments for a retention incentive whether or not a service agreement is required.

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- P. AAOs must terminate retention incentives paid with or without a service agreement as warranted, ensure that payments are made appropriately, and the employee notified of the decision to terminate the incentive as provided in this subsection.
1. Retention incentives must terminate when an employee is demoted or separated for cause, receives a less than “Fully Successful” or equivalent rating of record, otherwise fails to fulfill the terms of the service agreement, or when conditions under which the original incentive was approved no longer applies. Under these circumstances, the employee is entitled to retain retention incentive payments previously paid by the OpDiv or StaffDiv that are attributable to the completed portion of the service period. And if the employee received retention incentive payments that are less than the amount attributable to the completed portion of the service period, the division is not obligated to pay the employee the amount attributable to completed service, unless the written service agreement states otherwise.
 2. Retention incentive must be terminated when the employee moves to a different position.
 3. Retention incentives must be reduced or terminated when payment at the level originally approved is no longer warranted. Factors to consider include:
 - a. Amount, if any, necessary to retain the employee (or group of employees).
 - b. Availability of qualified candidates.
 - c. Budget conditions.
 - d. Other supporting factors.
 4. Retention incentives may be unilaterally terminated based solely upon management needs, even if the conditions that gave rise to the original determination to pay the incentives still exist. 5 C.F.R. § 575.311(a)(2). Under these circumstances, the employee is entitled to retain any retention incentive payments that are attributable to completed service and to receive any portion of a retention incentive payment owed by the division for completed service. 5 C.F.R. § 575.311(c).
 5. When a retention incentive administered without a service agreement is terminated, 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.

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6. The AAO must notify the employee in writing when a retention incentive is terminated, whether or not there is a service agreement.
 7. Employees may not grieve or appeal any decision to terminate or reduce a retention incentive.
- Q.** In addition to the consideration enumerated in paragraph P of this section, for retention incentives administered without a service agreement, the AAO must:
1. Review and certify in writing, at least annually, the decision to pay and confirm that circumstances still warrant continued payment.
 2. Reduce or terminate the incentive when the conditions change such that the original determination to pay no longer applies or when payment is no longer warranted at the level originally approved or at all after considering whether:
 - a. A lesser amount or none at all would be sufficient to retain the individual or group of employees.
 - b. Labor market factors make it more likely (or reasonably likely) to recruit candidates with competencies similar to those possessed by the individual or group of employees.
 - c. The division's need for the services of the individual or group of employees has been reduced to a level that makes it unnecessary to continue payment at the level originally approved or at all.
- R.** OpDivs and StaffDivs may begin payments of relocation incentives without affecting the payment of an existing retention incentive.
- S.** In accordance with 5 C.F.R. § 575.309(g), OpDivs or StaffDivs cannot commence an individual or group retention incentive service agreement or a group or individual retention incentive paid without a service agreement during a period of employment established under any service agreement required for the payment of a:
1. Recruitment and relocation incentive approved pursuant to this Instruction and 5 C.F.R. pt. 575, subparts A and B. (Note: The distinction that is created in this subsection and paragraph R of § 575-1-60 is one of order of approval. When warranted, it is permissible to approve a relocation incentive during the service period (i.e., after the approval) of a retention incentive. It is impermissible,

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however, to approve a retention incentive during the service period (i.e., after the approval) of a relocation incentive.

2. Retention incentive for an individual or group of employees approved pursuant to this Instruction and 5 C.F.R. pt. 575, subpart C.
- T.** Retention incentives are not a component of an employee's rate of basic pay for any purpose.

575-1-80 DOCUMENTATION, REPORTING, AND MONITORING

A. Documenting. Each OpDiv or StaffDiv approving a determination to pay an incentive shall document its decision in sufficient detail to justify the payment and permit reconstruction of the action. The paperwork will be submitted to the Human Resources Center to review for sufficiency, adherence to this Instruction, and document retention. This documentation must include a copy of the service agreement, the initial incentive determination, where necessary the employee's rating for the previous performance period, and the following information:

1. The criteria used to determine the need for paying the incentive (including the need for advance determination) and how the criteria were applied.
2. The criteria used to determine the amount of the incentive and how the criteria were applied.
3. The qualifications of the employee in sufficient detail to demonstrate that he or she meets any special qualifications needed for the position.
4. The length of the service agreement and the criteria used to make that determination.
5. Upon approval, the Human Resources Center shall prepare an SF-50 to document payment of the incentive and file that document in the employee's electronic Official Personnel Folder (eOPF).

B. Reporting. OHR will prepare an annual report in accordance with OPM requirements. Each report shall include:

1. The type of incentive.
2. Title, pay plan, series, and grade of the recipient.

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3. Total number of employees paid a particular incentive by title, pay plan, series, and grade.
 4. Total dollar amount paid for a particular incentive by title, pay plan, series, and grade.
 5. A narrative discussion of the situations for which incentives were used, the effectiveness of the retention incentive authorities, and any recommendations for improving the use of the statutory authorities in terms of both regulatory change and Department requirements and flexibilities.
- C. Monitoring.** OpDiv or StaffDiv must monitor the use of each incentive to ensure that its use is consistent with the requirements of the regulations and this policy. If an OpDiv or StaffDiv fails to adhere to these requirements, its delegation to use the authority may be revoked, suspended, or withdrawn.

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Exhibit A: Summary of Approval Authority for 3Rs Incentives

	Approved By	Limitations
Approve requests for recruitment or relocation incentives for individuals or groups when the proposed incentive does not exceed 25% multiplied by the number of years in the service period.	<ul style="list-style-type: none">• OpDiv or StaffDiv head• IG• AAO	One level above the recipient's immediate supervisor, except when the supervisor is the OpDiv or StaffDiv head or the IG.
Approve requests for retention incentives when the proposed incentive does not exceed 25% for an individual or 10% for a member of a group.	<ul style="list-style-type: none">• OpDiv or StaffDiv head• IG• AAO	One level above the recipient's immediate supervisor, except when the supervisor is the OpDiv or StaffDiv head or the IG.
Terminate service agreements and incentives payments.	<ul style="list-style-type: none">• OpDiv or StaffDiv head• IG• AAO	One level above the recipient's immediate supervisor, except when the supervisor is the OpDiv or StaffDiv head or the IG.
Request waiver from OPM to exceed recruitment, relocation or retention incentive limitations.	<ul style="list-style-type: none">• ASA	

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Exhibit B: 3Rs Incentives Comparison Chart

Type of Incentive	Amount of Payment	Covered Positions	Recipient Eligibility	Criteria for Use	Service Agreement	Method of Payment
Recruitment	May not exceed 25% of the employee's annual rate of basic pay (which includes special rate, locality payment, or similar pay under other legal authorities) 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 four years. Waivers of over 25 and up to 50% may be approved by OPM.	GS; SL; ST; career SES; LEO positions; EX; or positions where the rate of pay is fixed by law at a rate equal to a rate for the Executive Schedule; prevailing rate positions; positions in a category for which payment of a recruitment or relocation incentive has been approved by OPM.	Newly appointed employees, including first permanent appointment; or appointment of a former employee after a 90 day break in service.	Difficult to fill in the absence of an incentive. Must consider: <ul style="list-style-type: none"> • Difficulty in recruiting candidates; • Success of recent efforts to recruit candidates for similar positions; • Nonfederal salaries for similar positions; • Recent turnover; • Labor market factors; • Special skills, qualifications, etc.; • Available hiring flexibilities; • Work environment or geographic location, etc. 	Required not less than 6 months and no longer than 4 years.	<ul style="list-style-type: none"> • Lump sum at beginning of service period; • Final lump sum payment upon completion of service period; • Installments; or • Any combination of these.
Relocation	See Recruitment	See Recruitment	Current federal employees	<ul style="list-style-type: none"> • See Recruitment; and • Incentive paid only after the employee establishes residence in the new commuting area, although the incentive must be approved prior to the employee's entry on duty for the position in the new commuting area. 	See Recruitment	See Recruitment
Retention	Percentage of basic pay not to exceed 25% for an individual employee or 10% for a group or category of employees. Waivers of over 25 and up to 50% may be approved by OPM.	See Recruitment	Current federal employees	<ul style="list-style-type: none"> • Unusually high or unique qualifications; • Special need of organization; and • Employee would leave federal service. 	Same as Recruitment except not required if paid in biweekly installments.	<ul style="list-style-type: none"> • Installment after completion of specific periods of service; • Single lump sum after completion of full period of service per the service agreement; or • Biweekly.

**U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES
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Name (Last, First, MI)

Position Title

Pay Plan, Occupation Series, Grade/Step

Organizational Unit

Duty Station

Work Schedule

Full-time Part-time (number of normal hours per pay period)

Rate of Basic Pay (before incentive)

Base pay \$ Locality \$ Other \$

Type of Incentive

Recruitment Relocation Retention

For relocation incentives, the new geographic area is defined as a worksite that is 50 miles or more from the worksite of the position held immediately before relocating.

This is a(n)

Individual incentive

Group incentive

Total Amount of Incentive

\$

Percentage of Rate of Basic Pay

%

Is OPM approval required for the incentive (i.e., proposed incentive is greater than 25%)?

Yes No

Is the employee required to complete a probationary or training period before payment of the incentive begins?

Yes Date probationary or training period ends

No

The organization is not obligated to pay an incentive when the employee fails to successfully complete the probationary or training period before the service period commences.

Required Service Period

 years months

Minimum of 6months and maximum of 4 years for recruitment and relocation incentives

Service Period

Commences

Service Period

Terminates

Method of Payment

Lump sum

Installment by pay period

Installment by service period (describe below)

Combination of above (describe below)

Extent to which time on detail, in a nonpay or paid leave status is creditable toward the service period

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SERVICE AGREEMENT**

Basis for Termination of Service Agreement

- Employee demoted or separated for cause
- Employee's rating of record less than Fully Successful or equivalent
- Employee failed to fulfill the service agreement (other than above)
- For relocation incentives only: Employee failed to maintain residency in the new geographic area for the duration of the service agreement
- For retention incentives only: Conditions change such that the original determination to pay the incentive is no longer justified
- Management needs of the organization
- Other (describe below)

Describe the conditions under which the employee must repay the incentive.

Describe the conditions, if any, under which the organization will remit an additional incentive payment, if necessary, for partially completed service if the service agreement is terminated.

I have read the information contained in this service agreement and understand that the agreement is valid only when signed by the Authorized Agency Official and me. I acknowledge that under certain circumstances I may be required to reimburse amounts attributable to the incentive. I further understand that if the incentive is terminated for any reason, I am not entitled to grieve or appeal that decision.

Employee Signature

Date

I certify that this _____ incentive meets the criteria for approval as provided in HHS Instruction 575-1: Recruitment, Relocation, and Retention Incentives.

Authorized Agency Official Signature

Date

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SERVICE AGREEMENT**

The basis for paying all retention incentives must be certified at least annually, in writing, by the Authorized Agency Official, whether or not there is a written service agreement.

A retention incentive must be terminated if the employee is demoted or separated for cause, receives a rating of less than Fully Satisfactory or equivalent, or otherwise fails to fulfill the service agreement. The organization must reduce or terminate the amount/percentage of a retention incentive when conditions change such that the original determination to pay the incentive no longer applies, or when payment is no longer warranted given a change in labor market factors, an incentive is no longer required to retain the employee(s), or the need for the employee's service no longer justifies the incentive.

Name (Last, First, MI)

Position Title

Pay Plan, Occupation Series, Grade/Step

Organizational Unit

Duty Station

Work Schedule

Full-time Part-time (number of normal hours per pay period)

Basis for Review

Annual certification Other

This is a(n)

Individual incentive Group incentive

Effective date of initial incentive

Total amount of initial incentive \$ Percentage of initial incentive %

Effective date of continuation/termination

Total amount of continued incentive \$ Percentage of continued incentive %

Describe the organization's succession plan for the position for which the incentive is being granted.

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Describe the quality and availability of potential sources of employees identified by the organization's succession plan who currently possess the unique competencies required by the position or who with minimal training, cost, and disruption of service to the public could perform the full range of duties and responsibilities at the level performed by the employee.

Describe other efforts in the organization plan to eventually eliminate or reduce the use of retention incentives for the position.

Describe, as applicable, how the following factors contribute to the determination that the retention incentive is necessary (for individual and group incentives).

Employment trends and labor market factors

Recent recruitment efforts

Special or unique competencies required for the position

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Efforts to use nonpay authorities in lieu of or in addition to retention incentives

Desirability of duties, work or organizational environment, or geographic location of the position

Extent to which employee's departure would impair the organization's ability to carry out an activity, perform a function, or complete a project that the organization deems essential to its mission

Salaries typically paid outside the federal government

Other supporting factors

Basis for determination that employee is likely to leave federal service if incentive is not granted

I certify that the above information is accurate and meets the criteria for continuation, reduction, or termination of the retention incentive as required by HHS Instruction 575-1: Recruitment, Relocation, and Retention Incentives.

Authorized Agency Official Signature

Date

