

RECRUITMENT AND RETENTION INCENTIVES

1. Purpose

This directive establishes Department of Homeland Security (DHS) policy regarding recruitment and retention incentives.

2. Scope

A. This directive applies to all DHS organizational elements and all civilian employees in the Department, except:

1. The Secretary and other Presidential appointees listed in the Homeland Security Act of 2002; and
2. Those employed as “experts and consultants” under 5 U.S.C. 3109 or other statutory authorities.

3. Authorities

This directive is governed by numerous Public Laws and regulations, such as:

- A. 5 U.S.C. 5333 (superior qualifications appointment authority)
- B. 5 U.S.C. 5379 (student loan repayment program)
- C. 5 U.S.C. 5753 and 5754 (recruitment and relocation bonuses and retention allowances)
- C. 5 CFR 531.203(b) (superior qualifications appointment authority)
- D. 5 CFR part 537 (student loan repayment program)
- E. 5 CFR part 575 (recruitment and relocation bonuses and retention allowances)

4. Definitions

This MD uses the definitions in the parts of the Code of Federal Regulations cited in the “Authorities” section, above.

5. Responsibilities

- A. **The Secretary** (or his/her designee) is responsible for complying with this directive and with any applicable laws, regulations, and Executive Orders.
- B. **The Under Secretary for Management**, through the DHS Chief Human Capital Officer, shall be responsible for all aspects of this directive.

6. Policy & Procedures

A. **Policy.**

1. *Current and Future Employees of Existing Agency Components.* Until the Department establishes alternative, Department-wide recruitment and retention incentives, the Secretary will, with respect to current and future employees of organizational elements being transferred to DHS:

a. Comply with all laws and regulations on administering recruitment and relocation bonuses, retention allowances, student loan repayments, and superior qualifications appointments that are applicable to the transferred organizational elements.

b. Continue in force any applicable policies and procedures established by the transferred organizational elements or by their parent departments, including those negotiated through collective bargaining.

2. *Employees Hired into Newly Created Offices in DHS.* Until the Department establishes alternative, Department-wide recruitment and retention incentives, the Secretary (or his/her designee) will, with respect to employees of newly created offices in DHS:

a. Comply with all laws and regulations on administering recruitment and relocation bonuses, retention allowances, student loan repayments, and superior qualifications appointments that are applicable to the U. S. Customs and Border Protection.

b. Continue in force any applicable policies and procedures established by the U. S. Customs and Border Protection, including those negotiated through collective bargaining.

3. Alternatively, the Secretary may choose to adopt any or all of the attached “model plans” for administering recruitment and retention incentives to employees hired into newly created offices in DHS.

B. **Procedures.** The procedures for all DHS organizational elements are outlined in the following appendices:

1. Appendix A—recruitment bonuses
2. Appendix B—relocation bonuses
3. Appendix C—retention allowances
4. Appendix D—student loan repayments
5. Appendix E—superior qualifications appointments

C. **Questions or Concerns Regarding the Process.** Any questions or concerns regarding this directive should be addressed to the Office of the DHS Chief Human Capital Officer.

**DEPARTMENT OF HOMELAND SECURITY
Recruitment Bonuses**

PURPOSE

This Appendix is a model plan for the payment of recruitment bonuses to employees newly appointed to difficult-to-fill positions within the Department of Homeland Security (DHS).

REFERENCES

5 U.S.C. 5753
5 CFR part 575, subpart A

KEY DEFINITIONS (See also 5 CFR 575.103.)

Newly appointed means—

- The first appointment, regardless of tenure, as an employee of the Federal Government, or
- An appointment as an employee of the Federal Government following a break in service of at least 90 days from the candidate's last period of Federal employment. Employing offices may pay a recruitment bonus without requiring a 90-day break in service if the candidate's Federal employment during the 90-day period immediately preceding the appointment was limited to one or more of the following:
 - (1) Employment under the Student Educational Employment Program under 5 CFR 213.3202;
 - (2) Employment as a law clerk trainee under 5 CFR 213.3102(e);
 - (3) Employment as a student during school vacations under a short-term temporary appointing authority;
 - (4) Employment under a provisional appointment designated under 5 CFR 316.403 if the new appointment is permanent and immediately follows the provisional appointment; or
 - (5) Employment under a temporary appointment that is neither full-time nor the principal employment of the candidate.

Rate of basic pay means the rate of pay fixed by law or administrative action for the position to which the employee is or will be newly appointed before deductions and exclusive of additional pay of any kind. For example, a rate of basic pay includes a special salary rate under 5 U.S.C. 5305 and 5 CFR part 530, subpart C, but does not include locality payments under 5 U.S.C. 5304 or

special pay adjustments for law enforcement officers under section 404 of the Federal Employees Pay Comparability Act of 1990 (Public Law 101-509).

Service agreement means a written agreement between the employing office and a newly appointed employee under which the employee agrees to a specified period of employment with the office in return for payment of a recruitment bonus.

COVERAGE

Employees newly appointed in the following types of positions are eligible for a recruitment bonus:

- A General Schedule (GS) position paid under 5 U.S.C. 5332;
- A Senior-Level or Scientific or Professional (SL/ST) position paid under 5 U.S.C. 5376;
- A Senior Executive Service (SES) position paid under 5 U.S.C. 5383;
- A position as a law enforcement officer, as defined in 5 CFR 550.103;
- A position under the Executive Schedule established under subchapter II of chapter 53 of title 5, United States Code, or a position the rate of pay for which is fixed by law at a rate equal to a rate for the Executive Schedule;
- An executive branch position filled by Presidential appointment (with or without the advice and consent of the Senate);
- A prevailing rate position, as defined in 5 U.S.C. 5342(a)(3); and
- Any other category of position in DHS not otherwise covered for which the Office of Personnel Management (OPM) has authorized payment under 5 CFR 575.102(c).

A recruitment bonus may not be paid to the head of an agency or to an employee appointed to a position in the expectation of receiving an appointment as the head of an agency.

CRITERIA FOR PAYMENT

For each recruitment bonus paid, the employing office must document in writing the factors considered in authorizing the bonus, including the bonus amount, and the determination that, in the absence of the bonus, the office would encounter difficulty in filling the position. The office must make this determination before the employee actually enters on duty in the position for which he or she was recruited. The employee must sign a service agreement prior to payment.

In determining whether a recruitment bonus should be paid and in determining the amount of any such payment, the employing office must consider the following factors, as applicable in the case at hand:

- The success of recent efforts to recruit candidates for similar positions, including indicators such as offer acceptance rates, the proportion of positions filled, and the length of time required to fill similar positions;
- Recent turnover in similar positions;
- Labor-market factors that may affect the ability of the office to recruit candidates for similar positions now or in the future;
- Special qualifications needed for the position; and
- The practicality of using the superior qualifications appointment authority provided by 5 U.S.C. 5333 and 5 CFR 531.203(b) alone or in combination with a recruitment bonus.

The employing office may also consider other factors in determining whether to authorize a recruitment bonus and the amount of any such payment, such as—

- The severity of the recruiting problem;
- Salary levels reported in published salary surveys for comparable non-Federal positions;
- The importance/criticality of the position to be filled and the effect on the employing office if it is not filled or if there is a delay in filling it;
- Current salary of the candidate;
- Salary documented in a competing job offer;
- The disparity in cost of living between the candidate's current residence and the proposed duty station;
- The projected cost of further recruitment efforts if the candidate does not accept the position;
- The extent of the individual's past training and experience that serves to qualify him/her for the position; and
- Availability of funds.

An employing office may target groups of similar 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 bonus on a group basis.

SERVICE AGREEMENT

Before a recruitment bonus may be paid, the employee must sign a written agreement to serve a specified period of employment with DHS, regardless of the amount the recruitment bonus authorized. The minimum period of employment to be established under a service agreement for a recruitment bonus is 6 months. Employing offices may use the model service agreement in the Attachment to this plan.

The agreement may specify employment conditions considered appropriate, such as, but not limited to, the employee's position and the duties he/she is expected to perform, work schedule, duty location, or level of performance. However, the service agreement in no way constitutes a right, promise, or

entitlement to continued employment or noncompetitive conversion to the competitive service, nor does it limit management's right to take corrective or disciplinary actions as otherwise appropriate.

Failure to Complete a Service Agreement

An employee who fails to complete the period of employment established under a recruitment bonus service agreement will be indebted to the Federal Government and must repay the recruitment bonus on a pro rata basis. The amount to be repaid will be determined by providing credit for each full month of employment completed by the employee under the service agreement.

Amounts owed by an employee must be recovered from the employee under DHS's regulations for collection by offset from an indebted Government employee under 5 U.S.C. 5514 and 5 CFR part 550, subpart K.

An employee is not indebted to the Federal Government when the employee fails to complete a period of employment established under a service agreement because he or she is involuntarily separated (as defined in 5 CFR 575.103).

Waiver of Repayment

Repayment may be wholly or partially waived at the discretion of DHS if recovery would not be in the public interest or would be against equity and good conscience. In making this determination, DHS will take into account consistency, fairness, and the cost to the taxpayer of recovering monies owed to the Government. A waiver may be considered, but is not automatic, when an employee accepts a position in another part of DHS.

When an employee is separated by death or disability retirement, or is unable to continue working because of disability evidenced by acceptable medical documentation, repayment is automatically waived.

PROCEDURES FOR PAYING RECRUITMENT BONUSES

Responsibilities of Employing Offices

- Comply with merit system principles when authorizing recruitment bonuses and consider the need to maintain a balanced and diverse workforce.
- Ensure that their responsibilities under labor relations statutes and union agreements are fulfilled.
- Develop appropriate written documentation justifying the payment of a recruitment bonus and the amount of the bonus in accordance with the criteria in this plan.

- Ensure that the employee signs the recruitment bonus service agreement prior to payment.
- Obtain proper approval from the approving official, including a certification of the availability of funds, prior to the candidate entering Federal service.
- Maintain a record of each written determination required by this plan and make such records available for review upon request by DHS and OPM.
- Submit a report to the Secretary of DHS of each recruitment bonus determination.

Recruitment bonuses must be approved prior to the candidate entering on duty. The Secretary of DHS has delegated the authority to review and approve payment of recruitment bonuses to the Chief Human Capital Officer. This authority may be further delegated to expedite the approval process. However, each determination must be reviewed and approved by an official who is at a higher level than the official who made the initial decision, unless there is no official at a higher level in DHS.

When necessary to make a timely offer of employment, the approving official may establish criteria for offering recruitment bonuses in advance and authorize the recommending official to offer a recruitment bonus within a pre-established range without further review or approval.

Payment

A recruitment bonus must be calculated as a percentage of the employee's starting annual rate of basic pay (excluding locality pay) at the time of appointment, not to exceed 25 percent. The bonus is paid in a lump sum, and is not considered part of an employee's rate of basic pay for any purpose. Recruitment bonuses paid under this authority are in addition to basic pay. This incentive is subject to Federal income tax, FICA and Medicare withholding, and any State or local income tax withholdings that may be applicable. Tax withholdings will be deducted at the time payment is made.

A bonus may be paid to an individual not yet employed who has received a written offer of employment and signed a written service agreement.

DEPARTMENT OF HOMELAND SECURITY
Recruitment Bonus Service Agreement

Table with 3 columns: NAME (Print or Type - First Middle Last), Social Security Number, and Employing Office.

In consideration of the recruitment bonus for which I qualify under 5 U.S.C. 5753, as implemented by the regulations of the Office of Personnel Management (5 CFR 575, subpart A) and the policies of the Department of Homeland Security (DHS) and the (EMPLOYING OFFICE), I hereby agree to the following terms and conditions

1. I will serve in (EMPLOYING OFFICE) in for months/years.

2. The service agreement is effective (MONTH/DAY/YEAR) through (MONTH/DAY/YEAR).

3. DHS will pay me a recruitment bonus of (AMOUNT).

4. This service agreement in no way constitutes a right, promise, or entitlement for continued employment or noncompetitive conversion to the competitive service. Acceptance of this agreement does not alter the conditions or terms of my employment; accordingly, this agreement will not preclude nor limit DHS from effecting personnel actions as may be appropriate.

5. In the event I leave the DHS employing office before completing the agreed upon period of service, I will be indebted to the Federal Government and must reimburse DHS for a prorated portion of the recruitment bonus unless I am involuntarily separated (as defined in 5 CFR 575.103). The amount to be repaid will be determined by providing credit for each full month of employment I complete under the service agreement.

6. I am responsible for any income tax obligation resulting from the recruitment bonus.

7. In addition, I agree to the following condition(s):

Four horizontal lines for writing additional conditions.

_____.

I AGREE TO THE TERMS AND CONDITIONS OF THIS SERVICE AGREEMENT:

Signature _____ Date _____

Name (Print/Type) _____

**DEPARTMENT OF HOMELAND SECURITY
Relocation Bonuses**

PURPOSE

This Appendix is a model plan for the payment of relocation bonuses to current employees who must relocate to accept a difficult-to-fill position in a different commuting area within the Department of Homeland Security (DHS).

REFERENCES

5 U.S.C. 5753
5 CFR part 575, subpart B

KEY DEFINITIONS (See also 5 CFR 575.203.)

Commuting area means the geographic area surrounding a work site that encompasses the localities where people live and reasonably can be expected to travel back and forth daily to work, as established by the employing office based on the generally held expectations of the local community. When an employee's residence is within the standard commuting area for a work site, the work site is within the employee's commuting area. When an employee's residence is outside the standard commuting area for a proposed new work site, the employee's commuting area is deemed to include the expanded area surrounding the employee's residence and including all destinations that can be reached via a commuting trip that is not significantly more burdensome than the current commuting trip. This excludes a commuting trip from a residence where the employee planned to stay only temporarily until he or she could find a more permanent residence closer to his or her work site. For this purpose, a commuting trip to a new work site is considered significantly more burdensome if it would compel the employee to change his or her place of residence in order to continue employment, taking into account commuting time and distance, availability of public transportation, cost, and any other relevant factors.

Rate of basic pay means the rate of pay fixed by law or administrative action for the position to which the employee is or will be newly appointed before deductions and exclusive of additional pay of any kind. For example, a rate of basic pay includes a special salary rate under 5 U.S.C. 5305 and 5 CFR part 530, subpart C, but does not include locality payments under 5 U.S.C. 5304 or special pay adjustments for law enforcement officers under section 404 of the Federal Employees Pay Comparability Act of 1990 (Public Law 101-509).

Service agreement means a written agreement between the employing office and a current employee under which the employee agrees to a specified period of employment at the duty station to which relocated in return for payment of a relocation bonus.

COVERAGE

Employees in the following types of positions are eligible for a relocation bonus:

- A General Schedule (GS) position paid under 5 U.S.C. 5332;
- A senior-level or scientific or professional (SL/ST) position paid under 5 U.S.C. 5376;
- A Senior Executive Service (SES) position paid under 5 U.S.C. 5383;
- A position as a law enforcement officer, as defined in 5 CFR 550.103;
- A position under the Executive Schedule established under subchapter II of chapter 53 of title 5, United States Code, or a position the rate of pay for which is fixed by law at a rate equal to a rate for the Executive Schedule;
- An executive branch position filled by Presidential appointment (with or without the advice and consent of the Senate);
- A prevailing rate position, as defined in 5 U.S.C. 5342(a)(3); and
- Any other category of position in DHS not otherwise covered for which the Office of Personnel Management (OPM) has authorized payment under 5 CFR 575.202(c).

A relocation bonus may not be paid to the head of an agency or to an employee appointed to a position in the expectation of receiving an appointment as the head of an agency.

CRITERIA FOR PAYMENT

For each relocation bonus paid, the employing office must document in writing the factors considered in authorizing the bonus, including the bonus amount, and the determination that, in the absence of such a bonus, the office would encounter difficulty in filling the position. The employing office must make this determination before the employee actually enters on duty in the position for which he or she was recruited. The employee must sign a service agreement and establish a residence in the new commuting area prior to payment.

In determining whether a relocation bonus should be paid and in determining the amount of any such payment, the employing office must consider the following factors, as applicable in the case at hand:

- The success of recent efforts to recruit candidates for similar positions, including indicators such as offer acceptance rates, the proportion of positions filled, and the length of time required to fill similar positions;
- Recent turnover in similar positions;

- Labor-market factors that may affect the ability of the agency to recruit candidates for similar positions now or in the future; and
- Special qualifications needed for the position.

The employing office may also consider other factors in determining whether to authorize a relocation bonus and the amount of any such payment, such as—

- The severity of the recruiting problem;
- Salary levels reported in published salary surveys for comparable non-Federal positions in the local geographic area;
- The importance/criticality of the position to be filled and the effect on DHS if it is not filled or if there is a delay in filling it;
- Salary documented in a competing job offer;
- The disparity in cost of living between the candidate's current residence and the proposed duty station;
- The projected cost of further recruitment efforts if the candidate does not accept the position;
- The extent of the individual's past training and experience that serves to qualify him/her for the position; and
- Availability of funds.

An employing office may target groups of similar positions that have been difficult to fill in the past or that may be difficult to fill in the future. However, any determination to pay a relocation bonus must be made on a case-by-case basis. The employing office may waive, for a specified period of time, the case-by-case approval requirement for any employee whose rating of record is at least Level 3 ("Fully Successful" or equivalent), when—

- The employee is a member of a specified group of employees subject to a mobility agreement, and the employing office determines that relocation bonuses are necessary to ensure DHS's ability to retain employees subject to such an agreement; or
- A major organizational unit of DHS is relocated to a different commuting area, and the employing office determines that relocation bonuses are necessary for specified groups of employees to ensure the continued operation of that unit without undue disruption of an activity or function that is deemed essential to DHS's mission and/or without undue disruption of service to the public.

SERVICE AGREEMENT

Before a relocation bonus may be paid, the employee must sign a written agreement to serve a specified period of employment with DHS, regardless of the amount of the relocation bonus authorized, at the new duty station. Employing offices may use the model service agreement in the Attachment to this plan.

The agreement may specify employment conditions considered appropriate, such as, but not limited to, the employee's position and the duties he/she is expected to perform, work schedule, or level of performance. However, the service agreement in no way constitutes a right, promise, or entitlement to continued employment or noncompetitive conversion to the competitive service, nor does it limit management's right to take corrective or disciplinary actions as otherwise appropriate.

Failure to Complete a Service Agreement

An employee who fails to complete the period of employment established under a relocation bonus service agreement will be indebted to the Federal Government and must repay the relocation bonus on a pro rata basis. The amount to be repaid will be determined by providing credit for each full month of employment completed by the employee under the service agreement.

Amounts owed by an employee must be recovered from the employee under DHS's regulations for collection by offset from an indebted Government employee under 5 U.S.C. 5514 and 5 CFR part 550, subpart K.

An employee is not indebted to the Federal Government when the employee fails to complete a period of employment established under a service agreement because he or she is involuntarily separated (as defined in 5 CFR 575.203) or because of a written determination by the head of the employing office that it is necessary to relocate the employee to a position in a different commuting area.

Waiver of Repayment

Repayment may be wholly or partially waived at the discretion of DHS if recovery would not be in the public interest or would be against equity and good conscience. In making this determination, DHS will take into account consistency, fairness, and the cost to the taxpayer of recovering monies owed to the Government. A waiver may be considered, but is not automatic, when an employee accepts a position in another part of DHS.

When an employee is separated by death or disability retirement, or is unable to continue working because of disability evidenced by acceptable medical documentation, repayment is automatically waived.

PROCEDURES FOR PAYING RELOCATION BONUSES

Responsibilities of Employing Offices

- Comply with merit system principles when authorizing relocation bonuses and consider the need to maintain a balanced and diverse workforce.
- Ensure that their responsibilities under labor relations statutes and union agreements are fulfilled.
- Develop appropriate written documentation justifying the payment of a relocation bonus and the amount of the bonus in accordance with the criteria in this plan.
- Ensure that the employee signs the relocation bonus service agreement and establishes a residence in the new commuting area prior to payment.
- Obtain proper approval from the approving official including a certification of the availability of funds prior to the employee entering on duty in the new commuting area.
- Maintain a record of each written determination required by this plan and make such records available for review upon request by DHS and OPM.
- Submit a report to the Secretary of DHS, or designee, of each relocation bonus determination for submission to OPM's Central Personnel Data File.

Approval

Relocation bonuses must be approved prior to the employee entering on duty in the new commuting area. The Secretary of DHS has delegated the authority to review and approve payment of relocation bonuses to the Chief Human Capital Officer. This authority may be further delegated to expedite the approval process. However, each determination must be reviewed and approved by an official who is at a higher level than the official who made the initial decision, unless there is no an official at a higher level in DHS.

Payment

A relocation bonus must be calculated as a percentage of the employee's starting annual rate of basic pay (excluding locality pay) at the time of appointment in the new duty location, not to exceed 25 percent. An agency may pay a relocation bonus of up to the greater of \$15,000 or 25 percent of basic pay to a (1) law enforcement officer (as defined in 5 CFR 550.103) covered by 5 U.S.C. chapter 51 and (2) member of the United States Secret Service Uniformed Division.

A relocation bonus is paid in a lump sum, and is not considered part of an employee's rate of basic pay for any purpose. Relocation bonuses paid under this authority are in addition to basic pay. This incentive is subject to Federal income tax withholdings, FICA and Medicare withholding, and any State or local

income tax that may be applicable. Tax withholdings will be deducted at the time payment is made.

ATTACHMENT

**DEPARTMENT OF HOMELAND SECURITY
Relocation Bonus Service Agreement**

NAME (Print or Type – First Middle Last)	Social Security Number	Employing Office
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In consideration of the relocation bonus for which I qualify under 5 U.S.C. 5753, as implemented by the regulations of the Office of Personnel Management (5 CFR 575, subpart B) and the policies of the Department of Homeland Security (DHS) and the _____ (EMPLOYING OFFICE) I hereby agree to the following terms and conditions:

1. I will serve in _____ (EMPLOYING OFFICE) in _____ (DUTY STATION) for _____ months/years.
2. The service agreement is effective _____ (MONTH/DAY/YEAR) through _____ (MONTH/DAY/YEAR).
3. I will establish a residence in the new duty station prior to receiving payment of a relocation bonus.
4. DHS will pay me a relocation bonus of _____ (AMOUNT)
5. This service agreement in no way constitutes a right, promise, or entitlement for continued employment or noncompetitive conversion to the competitive service. Acceptance of this agreement does not alter the conditions or terms of my employment; accordingly, this agreement will not preclude nor limit DHS from effecting personnel actions as may be appropriate.
6. In the event I leave the DHS employing office before completing the agreed upon period of service in the new commuting area, I will be indebted to the Federal Government and must reimburse DHS for a prorated portion of the relocation bonus unless I am involuntarily separated (as defined in 5 CFR 575.203) or the head of the employing office determines that it is necessary to relocate me to a position in a different commuting area. The amount to be repaid will be determined by providing credit for each full month of employment I complete under the service agreement.
7. I am responsible for any income tax obligation resulting from the relocation bonus.

8. In addition, I agree to the following condition(s):

I AGREE TO THE TERMS AND CONDITIONS OF THIS SERVICE AGREEMENT:

Signature _____ Date _____

Name (Print/Type) _____

**DEPARTMENT OF HOMELAND SECURITY
Retention Allowances**

PURPOSE

This Appendix is a model plan for the payment of retention allowances to current Department of Homeland Security (DHS) employees if the unusually high or unique qualifications of the employee or a special need of DHS for the employee's services makes it essential to retain the employee, and DHS determines that the employee would be likely to leave the Federal service without the allowance.

REFERENCES

5 U.S.C. 5754
5 CFR part 575, subpart C

KEY DEFINITIONS (See also 5 CFR 575.303.)

Rate of basic pay means the rate of pay fixed by law or administrative action for the position to which the employee is or will be newly appointed before deductions and exclusive of additional pay of any kind. For example, a rate of basic pay includes a special salary rate under 5 U.S.C. 5305 and 5 CFR part 530, subpart C, but does not include locality payments under 5 U.S.C. 5304 or special pay adjustments for law enforcement officers under section 404 of the Federal Employees Pay Comparability Act of 1990 (Public Law 101-509).

COVERAGE

Employees in the following types of positions are eligible for a retention allowance:

- A General Schedule (GS) position paid under 5 U.S.C. 5332;
- A senior-level or scientific or professional (SL/ST) position paid under 5 U.S.C. 5376;
- A Senior Executive Service (SES) position paid under 5 U.S.C. 5383;
- A position as a law enforcement officer, as defined in 5 CFR 550.103;
- A position under the Executive Schedule established under subchapter II of chapter 53 of title 5, United States Code, or a position the rate of pay for which is fixed by law at a rate equal to a rate for the Executive Schedule;
- An executive branch position filled by Presidential appointment (with or without the advice and consent of the Senate);
- A prevailing rate position, as defined in 5 U.S.C. 5342(a)(3); and

- Any other category of position in DHS not otherwise covered for which the Office of Personnel Management (OPM) has authorized payment under 5 CFR 575.302(c).

A retention allowance may not be paid to the head of an agency or to an employee appointed to a position in the expectation of receiving an appointment as the head of an agency.

CRITERIA FOR PAYMENT

For each retention allowance paid, the employing office must document in writing that the unusually high or unique qualifications of the employee or a special need of the agency for the employee's services makes it essential to retain the employee and that, in absence of the allowance, the employee would be likely to leave the Federal service (for any reason). The employing office must describe in writing the extent to which the employee's departure would affect DHS' ability to carry out an activity or perform a function essential to DHS' mission.

In determining whether a retention allowance should be paid and in determining the amount of the payment, the employing office must consider the following factors, as applicable in the case at hand:

- The success of recent efforts to recruit candidates and retain employees with qualification similar to those possessed by the employee for positions similar to the position held by the employee; and
- The availability in the labor market of candidates for employment who, with minimal training or disruption of service to the public, could perform the full range of duties and responsibilities assigned to the position held by the employee.

The employing office may also consider other factors in determining whether to authorize a retention allowance and the amount of any such payment, such as—

- The severity of the retention problem;
- Salary levels reported in published salary surveys for comparable non-Federal positions in the local geographic area;
- Salary documented in a competing job offer;
- The projected cost of recruitment or training efforts if the employee leaves the position; and
- Availability of funds.

GROUP RETENTION ALLOWANCES

An employing office may pay a retention allowance of up to 10 percent of basic pay to a group or category of employees if—

- The unusually high or unique qualifications of the employees or a special need of the agency for the employees' services makes it essential to retain the employees in the group, and
- 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 the Federal service for any reason in the absence of an allowance.

An employing office may pay group-based retention allowances to current GS, prevailing rate (wage), or another type of employee for which such payments have been approved by OPM. The group retention allowance authority may not be used for groups of employees in SL/ST, SES, Executive Schedule, Presidential appointee, or similar positions.

The employing office must narrowly define the targeted group of employees to be paid a retention allowance using factors such as occupational series, grade level, distinctive job duties, unique qualifications, assignment to a special project, minimum DHS service requirements, organization or team designation, geographic location, and performance level. (Note: Performance level may not be the sole or primary basis for authorizing a retention allowance.)

To support a determination that there is a high risk that a significant number of employees in the group targeted to receive a retention allowance are likely to leave, the employing office must gather evidence of—

- Extreme labor market conditions;
- High demand in the private sector for the knowledge and skills possessed by the employees;
- Significant disparities between Federal and private sector salaries; or
- Other similar conditions.

Employing offices must submit requests for approval of a group retention allowance in excess of 10 percent, but not more than 25 percent, of basic pay to the Office of the Secretary of DHS. Such requests must include—

- A description of the group and the number of employees to be covered by the proposed retention allowance;
- A written determination that the group of employees meets the conditions for payment;
- The proposed percentage retention allowance payment and a justification for that percentage;
- The expected duration of retention allowance payments;
- Information on contact made with other affected agencies in the geographic area concerned; and
- Any other information pertinent to the case at hand.

The Office of the Secretary will submit group retention allowance requests to OPM for approval, as appropriate.

ADDITIONAL PAYMENT CONDITIONS

An employing office may not offer or authorize a retention allowance—

- For an employee fulfilling a previously established recruitment or relocation bonus service agreement. (Note: If a retention allowance is authorized first, a relocation bonus may be authorized without affecting the payment of a retention allowance.)
- For an employee likely to leave his or her position for other Federal employment of any kind in any branch of the Federal Government.
- Prior to an individual's employment with the employing office.
- For an employee if or to the extent that such an allowance, when added to the employee's estimated aggregate compensation, as defined in 5 CFR 530.202, would cause the aggregate compensation actually received by the employee during the calendar year to exceed the rate payable for level I of the Executive Schedule.

PROCEDURES FOR PAYING RETENTION ALLOWANCES

Responsibilities of Employing Offices

- Comply with merit system principles when authorizing retention allowances and consider the need to maintain a balanced and diverse workforce.
- Ensure that their responsibilities under labor relations statutes and union agreements are fulfilled.
- Develop appropriate written documentation justifying the payment of retention allowances and the amount of the allowance in accordance with the criteria in this plan.
- Obtain proper approval from the approving official including a certification of the availability of funds prior to authorizing payment of retention allowances.
- Reduce or terminate retention allowances as required by this plan.
- Review each retention allowance authorization at least annually to ensure payment is warranted and certify this determination in writing.
- Maintain a record of each written determination required by this plan and make such records available for review upon request by DHS and OPM.
- Submit a report to the Secretary of DHS, or designee, of each retention allowance determination for submission to OPM's Central Personnel Data File.

Approval

For individual retention allowance authorizations of up to 25 percent and group retention allowance authorizations of up to 10 percent, the Secretary of DHS has delegated the authority to review and approve payment to the Chief Human Capital Officer.

This authority may be further delegated to expedite the approval process. However, each determination must be reviewed and approved by an official who is at a higher level than the official who made the initial decision, unless there is no official at a higher level in DHS.

Employing offices must submit requests for group retention allowance authorizations in excess of 10 percent, up to 25 percent, to the Office of the Secretary of DHS, or designee, for submission to OPM for approval.

Payment

A retention allowance must be calculated as a percentage of the employee's rate of basic pay (excluding locality pay), not to exceed 25 percent. A retention allowance is paid at the same time as basic pay—i.e., the allowance must be paid at an hourly rate for each hour during which the employee receives basic pay.

Retention allowances are not considered part of an employee's rate of basic pay for any purpose and are not included in an employee's lump-sum annual leave payment under

5 U.S.C. 5551. Retention allowances are in addition to basic pay and are subject to Federal income tax, FICA and Medicare withholding, and any State or local income tax withholdings that may be applicable. Tax withholdings will be deducted at the time payment is made.

Reducing or Terminating Retention Allowances

Employing offices must—

- Reduce or terminate retention allowances to ensure that an employee's estimated aggregate compensation, as described in 5 CFR 530.202, does not exceed the rate for level I of the Executive Schedule; and
- Reduce or terminate retention allowances when the conditions giving rise to the original determination to pay the allowance change (e.g., a lesser amount would be sufficient to retain the employee, labor-market factors make it more likely to recruit a candidate with qualifications similar to those possessed by the employee, the office's need for the employee's services has been reduced to a level that makes it unnecessary to continue payment).

Employing offices may reduce or terminate retention allowances when budgetary considerations make it difficult to continue payment at the level originally approved (or at all).

Employees may not appeal the reduction or termination of a retention allowance. However, this should not be construed to extinguish or lessen any right or remedy under 5 U.S.C. chapter 12, subchapter II, or any laws referred to in 5 U.S.C. 2302(d).

APPENDIX D: STUDENT LOAN REPAYMENT PROGRAM

PLEASE SEE [DIRECTIVE # 251-02 "REPAYMENT OF STUDENT LOANS FOR RECRUITMENT AND RETENTION"](#)

**DEPARTMENT OF HOMELAND SECURITY
Special Needs Pay-Setting Authority (Superior Qualification)**

PURPOSE

This Appendix is a model plan for using the special needs pay-setting authority (also known as superior qualifications appointments). This authority can be used to facilitate the recruitment and retention of highly qualified employees by allowing the Department of Homeland Security (DHS) to appoint an employee at a rate above the minimum rate of the appropriate General Schedule grade because of the superior qualifications of the candidate or a special need of DHS for the candidate's services. This plan also provides information on appointments above the minimum or advanced-in-hire rates for prevailing rate employees.

REFERENCES

5 U.S.C. 5333
5 CFR 531.203
5 CFR 532.249
5 CFR 532.403

COVERAGE

General Schedule

The special needs pay-setting authority may be used to set the rate of basic pay for an employee newly appointed to any General Schedule (GS) position, including permanent and temporary positions in either the competitive or the excepted service and those hired into special rate positions. The authority may also be used for reappointment to a GS position if the candidate has at least a 90-day break in service. A 90-day break in service is not required when the candidate was last employed -

- Under an appointment in the District of Columbia (DC) government when the candidate was first appointed by the DC government on or after 10/1/87;
- Under an appointment as an expert or consultant under 5 U.S.C. 3109;
- Under a temporary appointment effected primarily in furtherance of a postdoctoral research program, a predoctoral or postdoctoral training program during which the employee received a stipend, or a temporary appointment as a graduate student when the work performed is the basis for completing certain academic requirements for an advanced degree;
- Under a Schedule B appointment in a cooperative work-study program;
- As a member of the Commissioned Corps of the National Oceanic and Atmospheric Administration or the Commissioned Corps of the Public Health Service;

- Under the Intergovernmental Personnel Act; or
- Under a position which was neither full-time nor the principal employment of the candidate.

Federal Wage System (prevailing Rate Employees)

DHS may make a new appointment to a prevailing rate employee at a rate above the minimum rate or the appropriate grade in recognition of an appointee's special qualifications. DHS may also make new appointments at a step-rate above the minimum rate or a grade if the lead agency for the wage area has designated a step-rate above the first step-rate of a grade as the minimum step-rate at which a position may be filled, in accordance-with 5 CFR 532.403.

CRITERIA FOR PAYMENT

The employing office may consider an eligible candidate for a rate above the minimum rate of the grade when the candidate has superior qualifications or DHS has a special need for the candidate's services.

Superior Qualifications: A superior qualifications determination may be based either on the relevance of the candidate's experience or education to the particular work he or she will do or on the quality of the candidate's accomplishments compared to others in the field. In determining what would be expected of any well-qualified candidate and what would make a superior candidate, the employing office need not apply an absolute standard, but may consider the overall quality of the candidates available and the particular requirements of the position being filled.

Special Need: A candidate may fill a special need by bringing a type or quality of knowledge, skills, and abilities important to the particular program that DHS could not otherwise obtain. Ordinarily, a special need will occur in a position involving direct program management. This includes any job that is directly related to mission or program goals or a major activity within DHS.

DETERMINING WHICH STEP TO OFFER

Each determination for an appointment above the minimum must be approved and offered to the employee prior to entering on duty. Although this authority is a valuable tool to help attract the best and the brightest, DHS has a fiscal responsibility to offer the lowest salary necessary to attract a candidate. The special needs pay-setting authority should be used when the candidate otherwise would decline the position. Employing offices must document the factors considered in setting the individual's pay rate.

When making a determination regarding which step to offer a candidate, employing offices may " consider factors such as the following:

- What type or quality of knowledge, and/or abilities the candidate will bring to the

position;

- The candidate's existing pay (see description below);
- Existing labor market conditions (see description below);
- The success of recent efforts to recruit suitable candidates for similar positions; including such indicators as offer acceptance rates, the proportion of positions filled; and the length of time required to fill positions;
- Recent turnover in the same or similar positions; .The severity of the recruiting problem;
- Significant disparities between Federal and private sector salaries for the knowledge and skill required in the position to be filled;
- Salary documented in a-competing job offer;
- The disparity in cost of living between the candidate's current residence and the proposed duty station;
- The projected cost of further recruitment effort if the candidate does not accept the position; and
- Availability of funds.

Existing Pay: In determining the individual's existing pay. actual earnings include the candidate's salary .in his or her present position and from any outside employment that forms a regular, continuing portion of the candidate's total income and which the candidate will not be able to continue as a Federal employee; bonuses received on a regular basis; current firm offers of salary increases or other employment; and fringe benefits that are substantially superior to those offered by the Government. Actual earnings do not include earnings from a single contract or consulting assignment that are significantly .higher than the candidate's previous pay or other current offers. Earnings must be based on paid employment and must reflect compensation over a 12-month period.

Existing Labor Market Conditions: As the Federal Government moves to a more market-based system, it is important to consider existing market conditions in deciding how to offer and set an employee's rate of pay. Employing offices may consider whether the candidate has a reasonable expectation of obtaining non-Federal employment in his or her current field. The demand in the private sector for the knowledge and skills possessed by the individual, as well as salary levels reported in published salary surveys for comparable non-Federal positions also may be considered.

PROCEDURES FOR HIRING ABOVE THE MINIMUM RATE

Responsibilities of Employing Offices

- Comply with merit system principles when selecting employees to receive an appointment at a rate above the minimum of the grade tinder this authority and consider the need to maintain a balanced and diverse workforce.
- Ensure that their responsibilities under labor .relations statutes and union

agreements are fulfilled.

- Determine the importance/criticality of the position to be filled and the effect on DHS if it is not filled or if there is a delay in filling it.
- Consider the criteria for payment listed above when interviewing the candidates.
- Gather information regarding the candidate's existing rate of pay.
- Collect information on existing labor markets.
- Obtain proper approval from the approving official including certification of the availability of funds prior to the candidate entering Federal service. (See Attachment.)

Consideration of Recruitment Bonus

As provided in 5 CFR 531.203(b)(3), employing offices must determine whether a recruitment bonus could meet the need instead of the appointment at the higher step of the grade. This is important because a recruitment bonus is a one-time payment, while an appointment at a higher step is permanent.

There may be situations where the disparity between the employee's current income and the Federal pay scale is so great that both an appointment above the minimum and a recruitment bonus are necessary. This is permitted, but it is important to document both actions thoroughly.

Documentation

Employing offices must document the use of the special needs pay-setting authority adequately to allow reconstruction of the action taken in each case. The Attachment may be used to expedite the process. Documentation must include a description of -

- (1) The superior qualifications of the individual or special need of DHS that justifies use of the authority;
- (2) The factor(s) considered in determining the individual's existing pay and the reason for setting pay at a rate higher than that needed to match existing pay; and
- (3) The reason(s) for authorizing an advanced rate instead of or in addition to a recruitment bonus under 5 CFR part 575, subpart A.

Approval

Use of the special needs pay-setting (superior qualifications) authority must be approved prior to an individual entering on duty. DHS has the discretionary authority to make pay rate determinations for superior qualifications and special needs of DHS employees. DHS has delegated the authority to approve these actions to each component head, this authority may be redelegated. It is important to expedite the process, since delays in approval may discourage potential candidates as well as result in pay errors. The attached form may be used to obtain the proper approval.

ATTACHMENT

DEPARTMENT OF HOMELAND SECURITY Special Needs Pay-Setting Authority (Superior Qualifications) Request for Approval	
1. Name of Candidate	2. Position
3. Recommended Grade and Step	4. Proposed Rate
5. Superior qualifications of the individual or special need of DHS that justifies use of the authority.*	
6. Factor(s) considered in determining the individual's existing pay and the reason for setting pay at a rate higher than that needed to match existing pay. *	
7. Reason(s) for authorizing an advanced rate instead of or in addition to a recruitment bonus under 5 CFR part 575, subpart A.	
8. <input type="checkbox"/> Approve <input type="checkbox"/> Disapprove	If disapproved, provide reason(s):
9. Approving Officials Name (print) Signature	Date

* Attach any supporting documentation.