



DEPARTMENT OF VETERANS AFFAIRS  
DEPUTY ASSISTANT SECRETARY FOR  
HUMAN RESOURCES MANAGEMENT AND LABOR RELATIONS  
WASHINGTON DC 20420

May 19, 2005

HUMAN RESOURCES MANAGEMENT LETTER NO. 05-05- 01

**Interim Instructions Concerning Implementation of  
Section 101, "Recruitment, Relocation, and Retention Bonuses", of  
Public Law 108-411, "Federal Workforce Flexibility Act of 2004",  
(Public Law 108-411, October 30, 2004)**

**1. Purpose.** This Human Resources Management Letter (HRML) provides interim guidance and instructions for implementing certain provisions of the above legislation that were effective May 13, 2005. Final guidance will be issued after the Department of Veterans Affairs (VA) has fully developed and issued policy regarding the new provisions.

**2. Background.** Section 101 of the above legislation provides additional, enhanced authorities to pay recruitment, relocation, and retention incentives to address staffing problems and better meet human capital needs. The provisions of Section 101 were to be effective May 1, 2005. However, implementing regulations were not issued by the Office of Personnel Management (OPM) in a timely manner and the authority to offer any new recruitment, relocation, and retention incentives was rescinded effective May 1, 2005 (see OHRM/LR Compensation Memo 2005-02, dated May 3, 2005). The restriction on offering these incentives to employees in title 38 occupations listed under 38 U.S.C. 7401(1) was subsequently lifted (see OHRM/LR Compensation Memo 2005-03, dated May 3, 2005). The interim instructions in this HRML apply to all eligible title 5 and title 38 employees.

**3. Discussion.** Effective upon the date of this issuance, the existing policies and procedures contained in VA Handbook 5007, Part VI, Chapters 1, 2, and 3 are reinstated and adopted for use under the new legislation for title 5 employees and under 38 U.S.C. 7410 for title 38 employees. However, all new recruitment, relocation, or retention incentives must also meet the requirements contained in this paragraph. The enhanced authorities set forth in OPM's implementing regulations dated May 13, 2005, will not be effected until new VA policy is issued as part of VA Handbook 5007.

a. **General.** The term "bonus" is replaced with the term "incentive", i.e., employees may be authorized a recruitment, relocation or retention *incentive* rather than a recruitment or relocation *bonus* or retention *allowance*.

b. **Exclusions.** Most existing categories of covered and excluded employees remain in place. However, regulations now also prohibit the payment of recruitment, relocation, and retention incentives to political employees in:

(1) A position to which an individual is appointed by the President (e.g., Assistant Secretaries, the Under Secretary for Health);

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(2) A position in the Senior Executive Service (SES) as a noncareer appointee; and,

(3) A position excepted from the competitive service by reason of its confidential, policy-determining, policy-making, or policy-advocating character (Schedule C).

c. **Rate of Basic Pay.** The rate of basic pay for the purpose of calculating the amount of recruitment, relocation, and retention incentive payments is redefined to include locality pay rates. Additional pay of any other kind (e.g., night differential, weekend pay) continues to be excluded from the definition.

### d. Documentation

(1) **Recruitment and Relocation Incentives.** The following criteria for approval of a recruitment or relocation incentive must be fully documented in writing. These criteria will be used instead of the criteria listed in VA Handbook 5007, Part VI, Chapter 2, paragraph 2b.

(a) The availability and quality of candidates possessing the competencies required for the position, including the success of efforts within the previous six months to recruit candidates for similar positions using indicators such as job acceptance rates, the proportion of positions filled, and the length of time to fill similar positions;

(b) The salaries typically paid outside the Federal Government for similar positions;

(c) Turnover within the previous six months in similar positions;

(d) Employment trends and labor-market factors that may affect the ability to recruit candidates for similar positions;

(e) Special or unique competencies required for the position;

(f) Efforts to use non-pay authorities, such as special training and work scheduling flexibilities, to resolve difficulties alone or in combination with a recruitment incentive;

(g) The desirability of the duties, work or organizational environment, or geographic location of the position; and

(h) Other supporting factors

(2) **Individual Retention Incentives.** The following criteria for approval of an individual retention incentive must be fully documented in writing. These criteria will be used instead of the criteria listed in VA Handbook 5007, Part VI, Chapter 3, paragraph 2.

(a) Employment trends and labor market factors such as the availability and quality of candidates in the labor market possessing the competencies required for the position and who, with minimal training, cost, or disruption of service to the public, could perform the

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full range of duties and responsibilities of the employee's position at the level performed by the employee;

(b) The success of efforts within the previous six months 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;

(c) Special or unique competencies required for the position;

(d) Efforts to use non-pay authorities to help retain the employee instead of or in addition to a retention incentive, such as special training and work scheduling flexibilities or improving working conditions;

(e) The desirability of the duties, work or organizational environment, or geographic location of the position;

(f) The extent to which the employee's departure would affect the facility's ability to carry out an activity, perform a function, or complete a project that is deemed essential to VA's mission;

(g) The salaries typically paid outside the Federal Government; and

(h) Other supporting factors.

(3) **Group Retention Incentives.** The criteria listed in subparagraph (2) above also apply to group retention allowances. Additionally, retention allowances authorized for a group must narrowly define the targeted category of employees. Factors that may be considered in defining the group include:

(a) Occupation series;

(b) Grade level;

(c) Distinctive job duties;

(d) Unique competencies required for the position;

(e) Assignment to a special project; and

(f) Geographic location.

### e. **Service Agreements**

(1) The required service period for a recruitment or relocation incentive may not exceed 4 years.

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(2) The commencement date and termination date of the required service period must be specified in the service agreement.

(3) Service agreements must begin on the first day of a pay period and end on the last day of a pay period.

(4) A recruitment or relocation service agreement must be terminated if:

(a) An employee is demoted or separated for cause (i.e., for unacceptable performance or conduct);

(b) The employee receives a rating of record lower than "Fully Successful" or equivalent during the service period; or,

(c) The employee otherwise fails to fulfill the terms of the service agreement.

(5) If a service agreement is terminated, the affected employee will be subject to the same repayment requirements as those who voluntarily fail to complete a service obligation (see VA Handbook 5007, Part VI, Chapter 2, paragraph 8).

(6) The conditions under which an approving official may terminate a service agreement and employee obligations resulting from terminated agreements must be specified in the service agreement. A sample service agreement is included in Attachment A of this HRML.

**f. Termination of Retention Incentives.** A retention incentive must be terminated if an employee is demoted or separated for cause (i.e., for unacceptable performance or conduct) or receives a rating of record lower than "Fully Successful" or equivalent. Written notice of the termination must be provided to the employee and the employee is entitled to receive regular bi-weekly incentive payments through the end of the pay period in which the written notice is provided.

### **g. Relocation Incentives**

(1) In order to be eligible for a relocation incentive, an employee must relocate to a position in a different geographic area (as opposed to a different *commuting* area as stated in the prior regulations). A position is considered to be in a different geographic area if the worksite of the new position is 50 miles or more from the worksite of the position held immediately before the move.

(2) An employee must enter on duty in the position to which relocated before he or she may receive the approved relocation incentive payment.

(3) A relocation incentive may be paid only when the employee's rating of record for the position held immediately before the move is at least "fully successful" or equivalent.

**h. Aggregate Pay Limitation.** Excess retention incentive payments that would cause an employee's total compensation to exceed the aggregate limitation may now be deferred and paid in a lump-sum payment at the beginning of the following calendar year. Excess recruitment and relocation incentive payments could already be deferred under the previous regulations.

**i. Incentives Authorized Prior to May 1, 2005**

(1) This interim guidance does not apply to recruitment and relocation bonuses or retention allowances authorized or offered prior to May 1, 2005 (even if effective after May 1, 2005). Those bonuses or allowances must be paid under the policies in effect in VA Handbook 5007, Part VI, at the time the offer was made (e.g., the rate of basic pay excludes locality payments; the service agreement is not contingent upon the performance rating; retention allowance payments that would exceed the aggregate limit cannot be deferred, etc.).

(2) Any recruitment or relocation bonus service agreement that was in place prior to May 1, 2005, remains in effect until its expiration.

(3) Retention allowances that were authorized prior to May 1, 2005, must continue to be paid until the retention allowance is reauthorized or terminated, but may not exceed April 30, 2006.

**4. Questions.** Attachment B contains a discussion of question and answers on the use of recruitment, relocation, and retention incentives under the interim rules. Questions concerning this HRML may be directed to the Compensation and Classification Service staff as shown in Attachment C.



T. J. Hogan

Attachments A – C

**SAMPLE RECRUITMENT/RELOCATION SERVICE AGREEMENT**

As a condition of being paid a recruitment (or relocation) incentive of (amount) in connection with my appointment on a X time basis, to the position of (position) at (VA facility) on (month, day, year), I agree to complete (number) full consecutive bi-weekly pay periods of employment starting on (date – must be beginning of a pay period even if the date will be after the EOD date) and ending on (date – must be the last day of a pay period and may not exceed 4 years) with the Department of Veterans Affairs (VA) and, in the event of transfer of function, to complete all remaining months of obligated service with the successor agency.

I understand that if I fail to complete this period of employment (at VA facility) or reduce my hours of work, I may be required to repay the recruitment (or relocation) incentive in accordance with prescribed regulations, unless the Secretary of Veterans Affairs or designee determines that failure to complete the obligated service was for reasons beyond my control or that repayment is against equity or is not in the interest of the Government.

I understand that this service agreement must be terminated by the Department if I am demoted or separated for cause; receive a performance rating of less than “Fully Successful” or equivalent during the required service period; or otherwise fail to fulfill this agreement. I further understand that if my service agreement is terminated by the Department, I am entitled to retain only the portion of the incentive that is attributable to the completed portion of the service period. I further agree that any amount I am obligated to refund will be a debt due the United States, which I hereby agree to pay in full as directed by VA.

I understand that the incentive will be paid to me as a lump sum within X pay periods of the date on which I will report for duty in the new position, unless compliance with aggregate limit on compensation regulations requires otherwise.

If I apply for another position before fulfillment of the service obligation resulting from this incentive, I will notify the recruiting office of that fact at the time of application. I understand that this agreement is valid only when signed by me, the requesting official, and the approving official.

(Add additional conditions as appropriate)

(employee name) (date)                      (requesting official) (date)

APPROVED: I certify that payment of an incentive is appropriate in order to fill the above position.

(approving official) (date)

**RECRUITMENT, RELOCATION, AND RETENTION INCENTIVES  
QUESTIONS & ANSWERS**

**Q1. Why are recruitment and retention bonuses and relocation allowances now being referred to as recruitment, relocation, and retention incentives?**

The word incentive was used to differentiate payments which are designed to provide a monetary incentive for an individual or group to accept a new position or to remain employed in their current position(s), as opposed to rewarding an individual or group for quality of performance (the typical context in which the term "bonus" is used).

**Q2. When does the interim policy go into effect?**

The interim policy contained in this HRML for recruitment, relocation, and retention incentives is effective as of the date of this issuance.

**Q3. What is covered by the interim policy?**

Any recruitment, relocation, and retention incentive payments effective as of the date of this issuance and thereafter are covered by the interim policy contained in this HRML.

**Q4. What is the governing policy for a Title 5 or hybrid newly appointed employee who was offered a recruitment bonus; or an existing employee who was offered a relocation bonus or retention allowance prior to the date of this issuance of interim policy?**

If the offer was made prior to the authority being rescinded on May 1, 2005 then the policy contained in VA Handbook 5007, Part VI, Chapters 1 through 3 is the governing authority. If the offer was made on or after the date of this issuance, the interim policy contained in this HRML used in conjunction with VA Handbook 5007, Part VI, Chapters 1 through 3 is the governing authority.

**Q5. What is the governing policy for a Title 38 newly appointed employee who was offered a recruitment bonus; or an existing employee who was offered a relocation bonus or retention allowance prior to the date of this issuance of interim policy?**

Offers made prior to the date of this issuance will be governed by the existing policy contained in VA Handbook 5007, Part VI, Chapters 1 through 3. Offers made on or after the date of this issuance are governed by the interim policy contained in this HRML used in conjunction with VA Handbook 5007, Part VI, Chapters 1 through 3.

**Q6. Does the interim policy apply to existing recruitment or relocation bonuses and retention allowances?**

No, existing recruitment or relocation service agreements and retention allowances continue to be subject to the policy contained in VA Handbook 5007, Part VI, Chapters 1 through 3. Any incentive payments offered on or after the date of this issuance are governed by the interim policy contained in this HRML used in conjunction with VA Handbook 5007, Part VI, Chapters 1 through 3.

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Attachment B**

**Q7. What impact does the interim policy have on employees currently performing obligated service as a result of a recruitment or relocation bonus payment approved prior to the new regulations?**

None. Any service agreement that was in place prior to the publication of the new regulations and the issuance of this HRML remains in effect until its expiration and is not subject to the provisions contained in the HRML.

**Q8. Do existing retention allowances need to be re-approved as a result of the interim policy?**

No. Retention allowances in effect prior to the date of this issuance must continue to be paid until the retention allowance is reauthorized or terminated, but may not exceed April 30, 2006.

**Q9. What is considered basic pay for purposes of calculating an incentive payment?**

For purposes of calculating an incentive payment, the rate of basic pay is the rate fixed by law or administrative action for the position to which an employee is or will be appointed before deductions and including a special salary rate or a locality-based comparability payment. It excludes additional pay of any kind (e.g. night shift differential, environmental differential, weekend pay).

**Q10. Since the definition of basic pay has changed to include locality pay, should existing retention allowances be recalculated?**

No. Existing retention allowances remain subject to prior regulations that do not include locality pay as part of basic pay.

**Q11. Is physician and dentist special pay considered basic pay for purposes of calculating an incentive payment?**

No, special pay is not considered basic pay for purposes of calculating an incentive payment. The rate of basic pay is defined to include only a special rate or locality based comparability payment.

**COMPENSATION AND CLASSIFICATION SERVICE  
COMPENSATION STAFF POINTS OF CONTACT**

**DEBORAH ALLEN**  
202.273.9700 voice  
202.273.7607 FAX

**VISNs:** 3, 7, 10, 17, 18, 20, & 21

**VBA:** Western Area

**NCA MSNs:** Philadelphia and Oakland Areas

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**VISNs:** 4, 6, 9, 12, 16, 19 & 23

**VBA:** Southern Area

**NCA MSNs:** Atlanta and Denver Areas

**BILL SOULTS**  
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**VISNs:** 1, 2, 5, 8, 11, 15, 22 & VACO

**VBA:** Central and Eastern Areas

**NCA MSNs:** Indianapolis Area

**Nationwide:** Federal Wage System