

section, a recruitment or retention problem exists if the criteria for a recruitment bonus under 5 CFR 575.104(c)(2) or for a retention allowance under 5 CFR 575.305(c)(3) applies.

(1) *Recruitment problem.* Before determining that an agency has or anticipates a problem in the recruitment of qualified personnel for a particular position, an agency shall make a reasonable recruitment effort, including factors in 5 CFR 575.104(c)(2). In making a reasonable recruitment effort, an agency will consider the following:

(i) For a position in the competitive service, the results of requests for referral of eligibles from the appropriate competitive examination. For a position in the excepted service, the agency's objectives and staffing procedures.

(ii) Contacts with State Employment Service office(s) serving the locality concerned.

(iii) Contacts with academic institutions, technical and professional organizations, and other organizations likely to produce qualified candidates for the position, including women's and minority-group organizations.

(iv) The possibility of relieving the shortage through broader publicity and recruitment.

(v) The availability of qualified candidates within the agency's current work force.

(vi) The possibility of relieving the shortage through job engineering or training of current employees.

(2) *Retention problem.* Before determining that an agency has or anticipates a problem in the retention of qualified personnel in a particular occupation, an agency shall consider the factors in 5 CFR 575.305(c)(3) and:

(i) The ease with which an agency could replace the employee with someone of comparable background;

(ii) The current and projected vacancy rates in the occupation;

(iii) The rate of turnover in the occupation; and

(iv) Technological changes affecting the occupation and long-range predictions affecting staffing for the occupation.

(d) *Assessing continuing problems.* A reassessment of a "continuing" recruitment or retention problem shall be made periodically.

(e) *Authorizing training.* (1) An agency may authorize full or part-time training to address a recruitment problem if—

(i) The training qualifies an employee for a shortage position identified under paragraph (c)(1) of this section; and

(ii) The agency expects to place the employee in the shortage position after the training.

(2) Training may be authorized under this section for the purpose of retaining an employee in a shortage occupation identified under paragraph (c)(2) of this section, if it involves a course of study selected mainly for its potential contribution to effective performance in that occupation.

(3) Agencies shall select employees for academic degree training according to competitive procedures as specified in § 410.306.

(f) *Monitoring training.* An agency shall assess the contribution of training assignments under this section to resolving recruitment or retention problems in its shortage occupations.

(g) *Documentation.* (1) In exercising the authority in this section, an agency shall retain for a reasonable period:

(i) A record of employees assigned to training under this section; and

(ii) A record of findings that the recruitment or retention problem is a continuing one.

(2) As a separate record, the servicing personnel office shall keep the following information for each employee assigned to training under this section:

(i) Nature and justification for the shortage determination;

(ii) Kind of training (e.g., career experience program, continuing professional and technical education, retraining for occupational change); a description of the field of study; and the nature of any degree pursued under the training program; and

(iii) A written continued service agreement, if required.

§ 410.309 Agreements to continue in service.

(a) *Authority.* Continued service agreements are provided for in section 4108 of title 5, United States Code.

§410.310

Agencies have the authority to determine when such agreements will be required.

(b) *Requirements.* (1) The head of the agency shall establish written procedures which include the minimum requirements for continued service agreements. These requirements shall include procedures the agency considers necessary to protect the Government's interest should the employee fail to successfully complete training.

(2) An employee selected for training subject to an agency continued service agreement must sign an agreement to continue in service after training prior to starting the training. The period of service will equal at least three times the length of the training.

(c) *Failure to fulfill agreements.* With a signed agreement, the agency has a right to recover training costs, except pay or other compensation, if the employee voluntarily separates from Government service. The agency shall provide procedures to enable the employee to obtain a reconsideration of the recovery amount or to appeal for a waiver of the agency's right to recover.

[61 FR 66193, Dec. 17, 1996; 63 FR 72097, Dec. 31, 1998]

§ 410.310 Computing time in training.

For the purpose of computing time in training for continued service agreements under section 4108 of title 5, United States Code:

(a) An employee on an 8-hour day work schedule assigned to training is counted as being in training for the same number of hours he or she is in pay status during the training assignment. If the employee is not in pay status during the training, the employee is counted as being in training for the number of hours he or she is granted leave without pay for the purpose of the training.

(b) For an employee on an alternative work schedule, the agency is responsible for determining the number of hours the employee is in pay status during the training assignment. If the employee is not in pay status during the training, the employee is counted as being in training for the number of hours he or she is granted leave without pay for the purpose of the training.

5 CFR Ch. I (1-1-01 Edition)

(c) An employee on an 8-hour or an alternative work schedule assigned to training on less than a full-time basis is counted as being in training for the number of hours he or she spends in class, in formal computer-based training, in satellite training, in formal self-study programs, or with the training instructor, unless a different method is determined by the agency.

§ 410.311 Records.

Agencies shall retain, in such form and manner as the agency head considers appropriate, a record of training events authorized under this subpart for a reasonable period of time.

Subpart D—Paying for Training Expenses

§ 410.401 Determining necessary training expenses.

(a) The head of an agency determines which expenses constitute necessary training expenses under section 4109 of title 5, United States Code.

(b) An agency may pay, or reimburse an employee, for necessary expenses incurred in connection with approved training as provided in section 4109(a)(2) of title 5, United States Code. Necessary training expenses do not include an employee's pay or other compensation.

§ 410.402 Paying premium pay.

(a) *Prohibitions.* Except as provided by paragraph (b) of this section, an agency may not use its funds, appropriated or otherwise available, to pay premium pay to an employee engaged in training by, in, or through Government or non-government facilities.

(b) *Exceptions.* The following are excepted from the provision in paragraph (a) of this section prohibiting the payment of premium pay:

(1) *Continuation of premium pay.* An employee given training during a period of duty for which he or she is already receiving premium pay for overtime, night, holiday, or Sunday work shall continue to receive that premium pay. This exception does not apply to an employee assigned to full-time training at institutions of higher learning.