

U.S. DEPARTMENT OF EDUCATION

PERSONNEL MANUAL BULLETIN

PMB: 575-4

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APPROVED:

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GROUP

*Includes Amendments of 8-2-91
and 8-31-99

SUBJECT: RETENTION ALLOWANCES

I. AUTHORITY

The Federal Employees Pay Comparability Act of 1990 (Public Law 101-509, November 5, 1990) includes a new provision (5 U.S.C. 5754) that is designed to facilitate the retention of high quality employees or those for whom the Government has a special need. Interim regulations, 5 CFR Part 575, were published in the Federal Register on March 28, 1991.

II. POLICY

- A. The Department may authorize payment of a retention allowance of up to 25 percent of basic pay to a current employee if the unusually high or unique qualifications of the employee or a special need of the Department for the employee's services makes it essential to retain the employee. The Department must determine that, in the absence of a retention allowance, the employee would be likely to leave the Federal service for employment outside the executive, legislative, or judicial branch of the Federal Government.
- B. A retention allowance shall be calculated as a percentage of the employee's rate of basic pay (not to exceed 25 percent) and paid in the same manner and at the same time as basic pay--i.e., the allowance shall be paid at an hourly rate for each hour during which the employee receives basic pay. It shall not be considered part of an employee's rate of basic pay for any purpose, (e.g., retirement, life insurance, etc.). The retention allowance is considered earnings for Federal, State and local tax purposes.
- C. The Department may not authorize a retention allowance for an employee if or to the extent that such an allowance, when added to the annual rate of all other continuing payments to which the employee is entitled, would cause the annual rate of all continuing payments to exceed the rate then payable for level I of the Executive Schedule.
- D. The Department may continue payment of a retention allowance as long as the conditions giving rise to the original determination to pay the allowance still exist. However, each determination to pay an allowance shall be reviewed annually to determine whether the payment is still warranted, and this determination shall be certified in

writing by the Deputy Secretary or Deputy Under Secretary for Management, as appropriate (Section VII. B).

E. Conditions for payment

1. The Department may pay a retention allowance to an employee only if the employee has completed one year of continuous service immediately prior to such payment (or, if applicable, a period of employment established under the service agreement required for payment of a recruitment bonus, or a relocation bonus, whichever occurs later).
2. The Department may pay a retention allowance to an employee only if the employee is likely to leave the Federal service for employment outside the executive, legislative, or judicial branch of the Federal Government.
3. The Department may not pay a retention allowance to an employee who is likely to leave his or her position for employment in the executive, legislative, or judicial branch of the Federal Government, whether in the Department or a different agency.

III. APPLICABILITY

- A. The Department may authorize payment of a retention allowance to the following categories of employees who are serving under an appointment without time limitation: (1) employees in General Schedule positions, including positions under the Performance Management and Recognition System; (2) employees in senior-level or scientific or professional positions; (3) members of the Senior Executive Service; (4) law enforcement officers; (5) employees in positions under the Executive Schedule (or equivalent positions); (6) Presidential Appointees; and (7) employees in Senior Manager positions and technical and professional employees authorized by Public Law 105-244.
- B. The Secretary of Education or Secretary-designate is not eligible for a retention allowance.
- C. Office of Personnel Management (OPM) approval is required to authorize a retention allowance for any employee in any category not listed in Section III. A above.
- D. Applicable provisions of a negotiated collective bargaining agreement must be applied in conjunction with this Bulletin for positions in the bargaining unit.

IV. DEFINITIONS

- A. "Employee" means an employee in the Department who is serving under an appointment without time limitation and who meets the criteria in Section III.
 - B. "Rate of basic pay" means the rate of pay fixed by law or administrative action for the position held by an employee, before deductions and exclusive of additional pay of any kind, such as locality-based comparability payments or interim geographic adjustments.
 - C. "Senior Officer" means any official who is the head of an Office or Principal Operating Component of the Department,
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who reports directly to the Secretary or Deputy Secretary, i.e., Assistant Secretary or equivalent office head.

V. RESPONSIBILITY

- A. The Selecting Official who wishes to pay a retention allowance is responsible for preparing a justification that meets the criteria in Section VI below.
- B. The Senior Officer is responsible for making the determination to request payment of a retention allowance, and for determining the amount of such allowance.
- C. The Executive Officer is responsible for: determining the availability of funds; ensuring that the justification fully meets the criteria in Section VI below; and fulfilling the submission requirements for the Request for Personnel Action.
- D. The Servicing Personnel Officer is responsible for: advising management on all aspects of the retention allowance policy; reviewing each retention allowance request and forwarding it to the Director, Personnel Management Service (PMS), along with any additional relevant information that might affect the retention allowance decision; and providing the administrative support to process an approved retention allowance.
- E. The Director, Personnel Management Service is responsible for: advising the Secretary or the Secretary's designee, on all aspects of the Department's retention allowance policy; providing administrative support and establishing controls to ensure effective implementation of the plan; ensuring that the purpose and procedures of the retention allowance plan, and its relationship to the Department's compensation system, are communicated to management; reviewing individual case submissions for reasonableness and complete staff work; and making recommendations to the Deputy Under Secretary for Management on whether to approve the retention allowance request.
- F. The Director, Personnel Policy, Planning and Evaluation Staff is responsible for: reviewing, evaluating and advising the Director, PMS, whether to recommend approval of payment for each retention allowance request; monitoring program operations and performing the periodic evaluation described in Section VIII below; and recommending changes as necessary to ensure responsible administration of the retention allowance plan as part of an integrated compensation system.
- G. The Deputy Under Secretary for Management is responsible for: approval of requests for retention payments of 10 percent of basic pay or less, for employees at GS/GM-15 and below; and forwarding all other requests to the Deputy Secretary, with comment and/or recommendation.
- H. The Deputy Secretary is responsible for approval of requests for retention allowance payments for Senior Executive Service, Executive Schedule, senior level and Presidential Appointees; and for requests for retention allowances of more than 10 percent of basic pay for all other covered employees.

VI. PROCEDURE FOR REQUESTING APPROVAL FOR AN EMPLOYEE RETENTION ALLOWANCE

A. Justification

1. The justification must: (1) describe the employee's unusually high or unique qualifications for the position held; and/or (2) describe the Department's special need for the employee's services, in terms that make it essential to retain the employee. The justification must also certify that the employee would be likely to leave the Department for a job outside the executive, legislative, or judicial branch of the Federal Government in the absence of the retention allowance.
 2. The justification must describe the extent to which the employee's departure would affect the Department's ability to carry out an activity or perform a function essential to the Department's mission.
 3. The justification must describe the difficulty that would be encountered, and the estimated time required to recruit a replacement for the employee. The following factors, as well as any other relevant information, should be considered, as applicable:
 - a. The success of recent efforts to recruit candidates and retain employees with qualifications similar to those possessed by the employee for positions similar to the position held by the employee; and
 - b. 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.
 4. The justification must request and substantiate a retention allowance in a specific amount, expressed as a percentage of basic pay (up to 25 percent). The following factors, as well as the factors in VI. A and any other relevant information, should be considered:
 - a. The amount of a retention allowance should be sufficient to keep the Department's salaries competitive with those of other employers; and should strive to maintain equity among employees.
 - b. The amount of the retention allowance should take into consideration: (1) the qualifications or experience of the incumbent in relation to the duties of the position, and similar considerations; (2) the employee's performance appraisal; (3) budget considerations and policies;
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and (4) any other appropriate compensation-related indices.

B. Documentation Required

1. The following documentation must accompany each request for an employee retention allowance:
 - Justification from selecting official for payment of a retention allowance in an amount specified as a percentage of basic pay, as set forth in Section VI. A above;
 - Position Description;
 - Performance Agreement;
 - Performance Evaluation;
 - Employment contract or letter of offer from prospective employer outside the executive, legislative, or judicial branch of the Federal Government; or Employee statement of intent to leave the Department for employment outside the executive, legislative, or judicial branch of the Federal Government, including name of employer, estimated resignation date, and employee signature and date;
 - Senior Officer recommendation; and
 - Servicing Personnel Officer clearance and optional comments on any additional factors that should be considered in determining whether to approve the request.

C. Clearance and Approval

1. The justification and documentation required by Sections VI. A and B above must be submitted for clearance and approval as follows:

TO: Deputy Secretary or Deputy Under Secretary
for Management (as required by Section V. G
or H)

FROM: Senior Officer
2. The justification/documentation submission cited in Paragraph 1 above must be cleared and signed by the officials listed below. Each signed clearance represents certification of that official's fulfillment of responsibility to ensure complete staff work, reasonable action and any other responsibilities set forth in Section V of this Bulletin. The transmittal document must include signed certifications by each of the following:
 - Selecting Official

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- Executive Officer
 - Servicing Personnel Officer
 - Director, Division of Personnel Operations,
or
Director, Executive Resources Staff
 - Director, Personnel Policy, Planning and
Evaluation Staff
 - Director, Personnel Management Service
 - Administrator for Management Services
 - Deputy Under Secretary for Management
(when required)

D. Authorization

1. Each retention allowance paid shall be based on a written approval by the Deputy Secretary or Deputy Under Secretary for Management as specified in Section V. G and H above, certifying that the unusually high or unique qualifications of the employee or a special need for the employee's service makes it essential to retain the employee and that, in the absence of such an allowance, the employee would be likely to leave the Federal service for employment outside the executive, legislative, or judicial branch of the Federal Government.
2. The Administrator for Management Services will issue the retention allowance decision letter to the Senior Officer, with copies to the Executive Officer and Servicing Personnel Officer. An approval letter will authorize submission of the Request for Personnel Action (SF-52) as the vehicle to direct payment of the retention allowance.
3. Documentation requirements for the Request for Personnel Action (SF-52) and Notification of Personnel Action (SF-50) are provided in Federal Personnel Management Letter 296-113, dated April 30, 1991.

VII. REDUCTION OR TERMINATION OF RETENTION ALLOWANCE

A. Aggregate Limitation on Pay

At the time of an increase in one or more nondiscretionary continuing payments to an employee, the Department shall reduce the amount of a retention allowance to the extent

necessary to ensure that the annual rate of all continuing payments to which the employee is then entitled does not exceed the rate then payable for level I of the Executive Schedule. Continuing payments refer to basic pay and any other form of pay included in aggregate compensation; e.g., locality-based comparability payments or interim geographic adjustments, retention allowances, supervisory differentials, and cost-of-living allowances).

B. Annual Review of Retention Allowances

1. The Department may reduce or terminate payment of a retention allowance when it determines that--
 - a. A lesser amount (or none at all) would be

sufficient to retain the employee;

- b. Labor-market factors would likely make it less difficult to recruit a candidate with qualifications similar to those possessed by the employee;
- c. The Department's need for the services of the employee has been reduced to a level that makes it unnecessary to continue payments or to continue payment at the level originally approved; or
- d. Budgetary considerations make it difficult to continue payment; or to continue payment at the level originally approved.
- e. The reduction or termination of a retention allowance may not be appealed under this Bulletin.

- 2. The Personnel Policy, Planning and Evaluation Staff (PPPEs) will manage the annual review of the status of all retention allowances on a schedule that will allow the new determinations to go into effect on the first day of the first pay period beginning in October. The annual review process will essentially follow the approval procedure described in Section VI above, and will involve a reappraisal of the conditions

supporting the original retention allowance determination. PPPEs will provide specific instructions by letter to affected selecting officials, executive officers, and senior officers.

VIII. EVALUATION

- A. PPPEs shall evaluate the use of retention allowances to ensure that the Department's retention allowance system conforms to the requirements established under OPM regulations, and that the payment of retention allowances conforms to the criteria established under this Bulletin.
- B. On or before December 31 of each year, PPPEs shall prepare a written report on the Department's use of retention allowances during the previous fiscal year. Each report shall include information on the number of employees who received a retention allowance during the fiscal year, the percentage of salary received by each employee, and an evaluation of the overall effect of the payment of retention allowances on the Department's ability to retain high quality employees. The Personnel Management Service (PMS) shall make the annual report available for review upon request by OPM.

IX. RECORDS AND REPORTS

- A. PPPEs shall keep a record of each determination required by this Bulletin and make such records available for review upon request by OPM. PMS shall promptly submit a report of each such determination as a part of its regular submission to OPM's Central Personnel Data File.

- B. So that OPM can evaluate agencies' use of this authority and provide the Congress and others with information regarding the use of retention allowances, PMS shall maintain such other records and submit to OPM such other reports and data as OPM shall require.

Expiration: This Bulletin will expire upon issuance of a Personnel Manual Instruction.

TABLE OF CHANGES

Remove Page	Insert Page	Explanation of Changes
3	3	To include the application of this Bulletin to bargaining unit employees and positions.

REASON FOR THE CHANGE

Council 252 of the American Federation of Government Employees has agreed to the application of this Bulletin to bargaining unit employees and positions.

The following change incorporates approval by the Office of Personnel Management for individuals appointed to Senior Manager positions and technical and professional employees authorized by Public Law 104-244 to be eligible for recruitment bonuses.

Section III. A.:

In line 11 add "(7) employees in Senior Manager positions and technical and professional employees authorized by Public Law 105-244".

Page 1: Delete reference to "Distribution: FPM Chapter 575".