



United States Department of the Interior

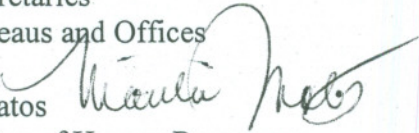
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240



DEC 20 2006

Memorandum

To: Solicitor
Inspector General
Assistant Secretaries
Heads of Bureaus and Offices

From: Marilia A. Matos 
Director, Office of Human Resources

Subject: Departmental Plan for Evacuation Pay During a Pandemic Health Crisis

The Office of the Assistant Secretary for Policy, Management and Budget is issuing a new Personnel Bulletin to all Departmental Offices, establishing a plan for providing evacuation pay during a pandemic health crisis. The plan provides for systematic practices and procedures across the entire Department. The plan is intended to clarify requirements implemented by the U.S. Office of Personnel Management for Title 5 of the United States Code of Federal Regulations (CFR), Part 550, Subpart D.

The attached Personnel Bulletin describes to all bureaus and equivalent organizations guidance to be used to provide evacuation pay during a pandemic health crisis. All Department of the Interior Human Resources Offices will utilize this plan when implementing procedures for granting evacuation plan to employees during such described crisis.

If you have any questions, please contact Nicholas Chomycia, Office of Human Resources, at (202) 208-6107, or via e-mail to Nicholas_Chomycia@ios.doi.gov.

Attachment

cc: Deputy Secretary
Chief of Staff
Bureau/Equivalent Office Human Resources Officers

DEC 20 2006

PERSONNEL BULLETIN NO. 07-01

SUBJECT: Departmental Policy on Evacuation Pay

1. This Bulletin establishes the Department of the Interior's (DOI) plan to provide evacuation pay during a pandemic health crisis.
2. **Authorities:** 5 U.S.C. §§ 5522 – 5524; and Title 5 of the United States Code of Federal Regulations (CFR), Part 550, subpart D.
3. **Plan Authority:** The Secretary of the Department of Interior (DOI) may provide evacuation payments to employees of the DOI whose departure from a place inside the United States is officially authorized or ordered from any place where there is imminent danger to the lives of the evacuated employees. The Secretary may provide evacuation payments to employees who are ordered to evacuate from their regular worksites and directed to perform work at home (or an alternative location mutually agreeable to the agency and the employee) during a pandemic health crisis. The employee's home (or an alternative location mutually agreeable to the agency and the employee), including a home/location under quarantine or confinement, may be designated as a safe haven during the period of evacuation to promote the "social distancing" of employees and protect employees from being exposed to additional viruses or mutations of a pandemic virus.

An evacuated employee at a safe haven may be assigned to perform any work considered necessary or required to be performed during the period of evacuation without regard to the employee's grade or title. However, a supervisor may not assign work to an employee unless he or she knows the employee has the necessary knowledge and skills to perform the assigned work. The agency must comply with statutory requirements regarding reasonable accommodation for qualified employees with a disability.

Managers and supervisors are encouraged to communicate regularly with employees who are performing work from home during a pandemic health crisis. Regular communication with employees will ensure they understand their work assignments and management's expectations during the period of the evacuation. Failure or refusal to perform assigned work may be a basis for terminating evacuation payments, as well as disciplinary action under 5 CFR, Part 752 (Adverse Actions). However, an employee's inability to perform assigned work because of lack of knowledge or skills may not be a basis for terminating evacuation payments or taking disciplinary action.

An employee who is ordered to work from home during a pandemic health crisis may not care for his or her children while performing work. However, the employee may request changes in his or her work schedule to allow the employee to work during the periods he or she is not responsible for caring for the child (e.g., when the child is sleeping or when a spouse or other family member is available to care for the child). An employee may request annual leave or other paid time off, such as earned compensatory time off or earned credit hours, to care for a healthy child.

4. **Ordering an Evacuation:** The Secretary may delegate to one or more of the following officials the authority to order employees to evacuate their regular worksites and perform work from their homes (or an alternative location mutually agreeable to the agency and the employee) during a pandemic health crisis:

- a. A designated representative at Bureau/Office headquarters;
- b. The head of an agency component or a designated representative; and
- c. The director, head, chief, or supervisor of an organization or office or a designated representative.

The Secretary or designated official may order an evacuation upon an official announcement by Federal, State, or local officials, public health authorities, and/or tribal governments, of a pandemic health crisis affecting certain geographic areas. (State, local, and tribal public health authorities generally are primarily responsible for detecting and responding to local disease outbreaks and implementing measures to minimize the consequences of an outbreak. The Federal Government supports State, local, and tribal public health officials in preparedness and response activities.) Consistent with 5 U.S.C. §§ 5522 and 5523 and the Department of State Standardized Regulations, responsibility for ordering an evacuation in overseas locations rests with the Department of State.

5. **Evacuation Payments:** The Secretary or designated official may provide evacuation payments to an employee who is ordered to evacuate his or her regular worksite and work from home (or an alternative location mutually agreeable to the agency and the employee) during a pandemic health crisis. Evacuation payments will be paid on the employee's regular pay days, since these payments reflect the employee's regular pay.

Evacuation payments will be based on an employee's rate of pay (including any applicable allowances, differentials, or other authorized payments) to which the employee was regularly entitled immediately before the issuance of the order to evacuate, regardless of the employee's work schedule during the evacuation period. For example, an employee is considered to be regularly entitled to night pay differential (5 U.S.C. §§ 5545(a) and 5343(f)) and Sunday premium pay (5 U.S.C. §§ 5544(a) and 5546(a)) for applicable hours in the employee's normal basic workweek. An employee is considered to be regularly entitled to law enforcement availability pay (5 U.S.C. § 5545a), administratively uncontrollable overtime pay (5 U.S.C. § 5545(c)(2)), standby duty premium pay (5 U.S.C. § 5545(c)(1)), regular overtime pay for firefighters (5 U.S.C. § 5545b), physicians' comparability allowances (5 U.S.C. § 5948), supervisory differentials

(5 U.S.C. § 5755), and non-foreign area cost-of-living allowances and post differentials (5 U.S.C. § 5941), as applicable. An employee will receive recruitment, relocation, and retention incentive payments (5 U.S.C. §§ 5753 and 5754) and extended assignment incentive payments (5 U.S.C. § 5757) consistent with the employee's signed service agreement. The agency must make all deductions from evacuation payments that are required by law, including retirement or Social Security (FICA) deductions, authorized allotments, and income tax withholdings.

An employee's evacuation payments must cover the period of time during which an applicable order to evacuate remains in effect, unless terminated earlier. However, evacuation payments may not continue for more than 180 calendar days after the effective date of an order to evacuate. The Bureaus/Offices must determine the days and hours the employee would have been expected to work during the selected time period (but for the evacuation) as follows: (1) for employees with a regularly scheduled tour of duty, the agency must determine the days and hours in the employee's normal basic workweek during the selected time period; and (2) for intermittent employees, the agency must estimate the days and hours the employee would have been expected to work during the selected time period (not to exceed 80 hours in a biweekly pay period). If possible, the agency will estimate an intermittent employee's projected days and hours of work based on a 6-week average.

6. **Additional Allowance Payments:** The Secretary or designated official, in his or her sole and exclusive discretion, may grant additional special allowance payments, based on a case-by-case analysis, to offset the direct added expenses incidental to performing work from home (or an alternative location mutually agreeable to the agency and the employee) during a pandemic health crisis. The discretionary authority does not change reasonable accommodation obligations under the Rehabilitation Act. Examples of discretionary special allowance payments might include increased costs for a computer, printer, fax machine, scanner, and telecommunications equipment incurred by an employee ordered to work from home (or an alternative location mutually agreeable to the agency and the employee) during the evacuation period. An employee is not entitled to additional allowance payments for such increased costs unless the allowance payments are specifically approved by the agency head or designated official. However, an employee may not be required to absorb increased expenses (e.g., long-distance calls, supplies, or delivery services) incidental to performing work from home (or an alternative location) if the increased expenditures primarily benefit the Federal Government, since an agency may not augment its appropriations - i.e., require an employee to absorb additional expenses incidental to performing work from home - without specific statutory authority to do so.

In most situations, employees who are ordered to evacuate their official duty stations during a pandemic health crisis will not receive additional allowance payments to offset the direct added expenses incident to travel outside the limits of their official duty station (e.g., travel and subsistence expenses.) However, the Secretary or designated official may make exceptions in unusual circumstances. (See 5 CFR § 550.405.)

Generally, an advance salary payment will not be made to an employee who is ordered to evacuate his or her official duty station during a pandemic health crisis, since the employee will receive evacuation payments on his or her regular pay day. However, the Secretary or designated official may make exceptions in unusual circumstances. (An advance salary payment may be made when an agency official has determined that payment in advance of the date on which the employee otherwise would be entitled to be paid is required to help the employee defray immediate expenses incidental to an employee's departure. An advance salary payment is equivalent to a loan and must be treated as a debt owed to the Federal Government. However, the Secretary or designated official may waive recovery of a debt for an advance salary payment when he or she determines that the recovery would be against equity or good conscience or against the public interest.)

7. **Termination of Payments:** The Secretary or designated official must terminate an employee's evacuation payments on the date of the earliest of the following events, as applicable:

- The employee is assigned to another duty station outside the evacuation area.
- The employee is separated from his or her position with the DOI.
- The elapsing of 180 days since the effective date of the order to evacuate.
- The employee resumes his or her duties at the regular worksite from which he or she was evacuated after the applicable order to evacuate is rescinded.
- The Secretary or designated official determines that payments are no longer warranted (e.g., based on guidance provided by State, local, or tribal public health officials or Federal officials, such as the Centers for Disease Control and Prevention or Department of State, regarding the status of the pandemic health crisis.)

8. **Review and Reconciliation of Employee Payroll Accounts:** After an order to evacuate is terminated, DOI's payroll provider will make adjustments in an employee's pay on the basis of the rates of pay, allowances, and differentials, if any, to which the employee otherwise would have been entitled during the period of evacuation under applicable statutes. Bureaus/Offices will review each employee's account for the purpose of making adjustments in the employee's pay. This review should be conducted at the earliest possible date after evacuation payments are terminated. Bureaus/Offices will determine whether, during the period covered by evacuation payments, an employee was entitled to higher total pay under the normally applicable pay provisions than the total amount of evacuation payments received by an employee. The alternative pay computation must take into account changes in an employee's rate of basic pay that occurred during the evacuation payment period (e.g., a within-grade increase) and additional hours worked beyond the number of hours assumed in computing the evacuation payments. For the purpose of this alternative pay computation, the employee is deemed to have worked at least the number of hours assumed in computing his or her evacuation payments. If the total pay under the alternative pay computation exceeds the

total amount of evacuation payments, the agency must pay the employee the additional amount. After an employee's account is reviewed, if Bureau/Offices finds that the employee is indebted to the Government, the agency must recover the debt from the employee, unless the Secretary or designated official grants a waiver. (See 5 CFR § 550.408.)

A handwritten signature in black ink, appearing to read "Marilia A. Matos". The signature is fluid and cursive, with a large initial "M" and a long horizontal stroke at the end.

Marilia A. Matos
Director, Office of Human Resources