

## **Reservist Differential Agency Implementation Guidance**

Reservist differentials are payable to eligible Federal civilian employees who are members of the Reserve or National Guard called or ordered to active duty under certain specified provisions of law. This authority is codified in 5 U.S.C. 5538, which was added by section 751 of the Omnibus Appropriations Act, 2009 (Public Law 111-8, March 11, 2009) and was amended by section 745 of the Consolidated Appropriations Act, 2010 (Public Law 111-117, December 16, 2009). Section 5538 became effective on March 15, 2009, for employees on the standard biweekly payroll cycle. OPM has issued detailed policy guidance on the reservist differential available at <http://www.opm.gov/reservist/>, which was developed in consultation with the Department of Defense.

This document provides agencies with procedural guidance for implementing the reservist differential authority.

### **1. Establish processes and procedures and one or more contact points in the agency responsible for implementing the reservist differential authority.**

- a. Agencies must establish processes and procedures for implementing the reservist differential authority, to include procedures for identifying and notifying affected employee-reservists, receiving and reviewing military orders and monthly military leave and earning statements (LESs), reviewing civilian pay and leave records of the affected employee-reservists, projecting civilian basic pay during the qualifying period of active duty service, and making reservist differential payments. Agencies should consult with their information security office and establish appropriate procedures for transmitting and receiving military orders and military LESs which may contain personally identifiable information (PII).
- b. The human resources staff in each agency must work closely with the agency's payroll provider, human resources processing office, Shared Service Center, and similar offices to implement the reservist differential authority, obtain the necessary information to determine reservist differential entitlements, and ensure appropriate and timely reservist differential payments.
- c. Agencies should establish one or more contact points in the agency that employee-reservists can get in touch with to ask questions and submit required documentation for the reservist differential authority. Contact information should include the name(s), phone number(s), email address(es), and fax number(s) of contact points, as appropriate. For example, agencies may wish to set up a specific email box to receive military orders and military LESs and inquiries related to the reservist differential authority.
- d. Agencies should be aware that employee-reservists on active duty have very limited time in which to access their military orders and LESs and email or fax information to their civilian human resources offices. Therefore, it is important to provide good agency contact information prior to their deployment. If possible, also request contact information from the employee-reservist prior to deployment. The employee-reservist should be able to provide an email address where he or she can be reached while on active duty.

### **2. Review OPM's reservist differential policy guidance.**

OPM's policy guidance for the reservist differential authority provides information to enable agency human resources management officials make determinations such as whether an employee is covered

by the reservist differential authority, identify the periods of active duty service that may qualify, and calculate reservist differential payments. Agency reservist differential contacts responsible for implementing the authority should review and apply OPM's policy guidance.

### **3. Identify civilian employees who are reservists.**

#### *Employees not currently on active duty*

Notify agency employees who are or may be members of the Reserve or National Guard who are not currently on active duty about the reservist differential authority. Request that such employee-reservists provide the appropriate agency contact point with copies of any pending military orders or notification of future active duty service (if known) as soon as possible after they receive the orders or notification so that the agency can determine whether the employee is potentially eligible for a reservist differential.

#### *Employees already on active duty*

- a. Identify employees on active duty by searching agency human resources or payroll systems. For example, search applicable database systems to identify employees covered by a LWOP-US Nature of Action Code 473 that has not been cancelled by a Nature of Action Code 292 (Return to Duty) prior to March 15, 2009.
- b. Notify the identified employee-reservists on active duty about their possible eligibility for a reservist differential.
- c. Request the identified employee-reservists to send the appropriate agency contact point a copy of their military orders for the active duty service period as soon as possible so that the agency can determine their eligibility for a reservist differential.

### **4. Review the military orders of each affected employee-reservist.**

- a. Review the military orders of each affected employee-reservist to determine whether the active duty call or order meets the applicable eligibility conditions under 5 U.S.C. 5538. The active duty call or order must have been made under one of the covered provisions of title 10, United States Code, and the employee must be entitled to reemployment rights under the Uniformed Services Employment and Reemployment Rights Act (USERRA - 38 U.S.C. chapter 43). (Additional information on the eligibility conditions is found in OPM's policy guidance at <http://www.opm.gov/reservist/>.)
- b. After reviewing the military orders, notify each employee-reservist whether he or she meets the eligibility requirements for coverage under the reservist differential provision. If an employee does not meet the applicable eligibility requirements, he or she is not eligible for a reservist differential and there is no need to gather any further information.
- c. If an agency has questions about the information on a military order, it must contact the employee-reservist. The employee-reservist may need to contact the military unit that issued the order for additional information.

**5. Obtain monthly military leave and earnings statements for each affected employee-reservist.**

- a. *Employees not currently on active duty who have received qualifying military orders or are anticipating receipt of such orders*—Before active duty commences, inform eligible employee-reservists that they will need to be prepared to provide the agency with a copy of each of their monthly military LESs during the qualifying period of active duty service. Copies of military LESs should be provided to the agency as soon as possible after they are issued so as not to delay the agency determination of the individual’s reservist differential entitlement, if any.
- b. *Employees already on active duty before agency initial implementation of the reservist differential program*—Request eligible employee-reservists to provide the agency with a copy of each of their monthly military LESs for the time period between March 15, 2009, and the current date.
- c. Reservists can review their monthly military LESs online at <https://mypay.dfas.mil> and save the file which can be emailed to the agency point of contact. (Employees should follow agency security procedures to protect personally identifiable information on the LES—e.g., encryption of the email.)
- d. If an agency has questions about the information on a monthly military LES, they must contact the employee-reservist. The employee-reservist may need to contact the military unit that issued the order for additional information.

**6. Gather information on the employee-reservist’s civilian tour of duty and civilian leave use during the qualifying period of active duty service.**

- a. Determine the employee-reservist’s civilian tour of duty established for leave usage purposes from agency payroll records.
- b. Gather information on the amount of civilian leave (including military leave and annual leave) or other paid time off the employee-reservist takes, if any, for each civilian biweekly pay period during the qualifying period of active duty. Civilian leave use information may be obtained from the employee-reservist’s civilian payroll records.
- c. See OPM’s reservist differential policy guidance at <http://www.opm.gov/reservist/> for additional information.

**7. Determine the employee-reservist’s civilian basic pay.**

- a. Determine the employee-reservist’s initial rate of civilian basic pay in effect at the beginning of the qualifying period of active duty service. The initial civilian basic pay may be obtained from the employee-reservist’s human resources or payroll records.
- b. For each pay period during the qualifying period of active duty service, determine the employee-reservist’s projected civilian basic pay (e.g., when the employee-reservist would have been due a within-grade increase or other basic pay increase during the qualifying period but for the interruption caused by the call to active duty). Information on determining projected basic pay may be obtained from the employee-reservist’s human resources or payroll records and agency policies for determining an employee’s rate of basic pay upon reemployment under USERRA.

- c. Additional information on determining initial and projected civilian basic pay can be obtained from OPM's reservist differential policy guidance at <http://www.opm.gov/reservist/>.

## **8. Calculating and paying the reservist differential.**

- a. When an agency has obtained the eligible employee-reservist's monthly military LESs and determined the employee-reservist's civilian tour of duty, leave use information, and initial and projected civilian basic pay, the reservist differential may be calculated.
- b. The reservist differential must be paid from the same appropriation or fund that would have been used to pay the employee's civilian salary but for the interruption to perform military active duty. Reservist differentials should be paid at the same frequency as regular civilian salary payments (e.g., generally on a biweekly basis for executive branch employees).
- c. See OPM's reservist differential policy guidance at <http://www.opm.gov/reservist/> for additional information and an example of a reservist differential calculation.

### **Additional Information**

- Reservist Differential Webpage: <http://www.opm.gov/reservist/>.

Reservist Differential Email box ([pay-leave-policy@opm.gov](mailto:pay-leave-policy@opm.gov)): This email address is for inquiries from headquarters-level agency HR specialists **only**. Employee-reservists must contact their own agency human resources office if they have questions on the reservist differential authority. Staff at local human resources offices must contact their agency headquarters.