

PART 2051 - HOURS AND PAY

Subpart B - Recruitment, Relocation, and Retention Bonuses

Table of Contents

<u>Sec.</u>		<u>Page</u>
2051.51	Purpose.	1
2051.52	Authority.	1
2051.53	Delegation of Authority.	1
2051.54	Definitions.	1
2051.55	Authorization for Payment of Recruitment and Relocation Bonuses.	4
	(a) Recruitment Bonus Plan.	4
	(b) Relocation Bonus Plan.	4
2051.56	Criteria for Payment of Recruitment/Relocation Bonuses and Approving Documents.	4
2051.57	Payment of Recruitment and Relocation Bonuses.	5
2051.58	Service Agreements.	6
2051.59	Repayment of Recruitment and Relocation Bonuses.	6
2051.60	Retention Allowances.	7
	(a) Retention Allowance Plan.	7
	(b) Criteria for Payment of Retention Allowances.	8
2051.61	Payment of Retention Allowances.	9
2051.62	Reduction or Termination of Retention Allowances.	10
2051.63	Records.	11
2051.64	Reports.	11
2051.65	- 2051.100 [Reserved]	11
Exhibit A	- "Justification/Determination Worksheet for Payment of a Recruitment or Relocation Bonus"	
Exhibit B	- "Justification/Determination Worksheet for Payment of a Retention Allowance"	

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Part 2051 - HOURS AND PAY

SUBPART B - Recruitment, Relocation and Retention Bonuses

§ 2051.51 Purpose.

This instruction supplements Departmental Manual No. 4050-575, Recruitment, Relocation and Retention Payments, dated May 28, 2003.

§ 2051.52 Authority.

The instructions contained in this supplement and the Departmental Manual 4050-575 constitute United States Department of Agriculture (USDA) Rural Development's Recruitment and Relocation Bonus Plan. This Plan meets the requirements set forth in 5 U.S.C. 1104(a)(2), 5753 and 5754; EO 12748 and 5 CFR Part 575.

§ 2051.53 Delegation of Authority.

Authority to approve the following actions has been delegated to the Deputy Administrator for Operations and Management with final review by the Under Secretary for Rural Development. The authority can not be redelegated below the Deputy Administrator for Operations and Management: (Revised 09-27-06, PN 402.)

- (a) Recruitment bonuses,
- (b) Relocation bonuses, and
- (c) Retention allowances.

§ 2051.54 Definitions.

Agency. Rural Development, a mission area under USDA.

Agency Head. The head of an USDA agency or an official who has been delegated the authority to act for the head of the Agency in the matter concerned.

Commuting Area. The geographic area that normally is considered one area for employment purposes. It includes any population center (or two or more neighboring ones) and the surrounding localities where people live and reasonably can be expected to travel back and forth daily to work.

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Employee. For purposes of paying a recruitment bonus, means an employee who is newly appointed or an individual who has received a written offer to be newly appointed, and who has signed a service agreement. If the employee is offered a recruitment bonus to a temporary position, the appointment would have to be of at least 6 months' duration. For purposes of paying a relocation bonus, means an employee who is appointed without a break in service to a position in a different commuting area or whose duty status has changed permanently or temporarily to a different commuting area, assuming all other conditions are met (See § 2051.56).

Involuntarily Separated. A separation initiated by an agency against the employee's will and without his or her consent, for reasons other than cause on charges of misconduct or delinquency. An involuntary separation includes a separation resulting from the employee's actual inability to do the work following genuine efforts to do so, but does not include a separation under 5 CFR Part 752 (Adverse Actions) or an equivalent procedure for reasons that involve culpable wrongdoing on the part of the employee. In addition, when an employee is separated because he or she declines to accept reassignment outside his or her commuting area, the separation is involuntary if the employee's position description or other written agreement does not provide for such reassignment. However, an employee's separation is not involuntary if, after such a written mobility agreement is added, the employee accepts one reassignment outside his or her commuting area, but subsequently declines another such reassignment.

Newly Appointed. For purposes of paying a recruitment bonus, refers to the first appointment, regardless of tenure, as an employee of the Federal Government or an appointment following a break in service of at least 90 days. The following types of appointments are exceptions to the 90-day rule and do not count as service in applying the break-in-service requirement for payment of a recruitment bonus:

- (1) Employment under the Student Educational Employment Program under 5 CFR 213.3202,
- (2) Employment as a law clerk trainee under 5 CFR 213.3102(e),
- (3) Employment while a student during school vacations under a short-term temporary appointing authority,

§ 2051.54 (Con.)

(4) Employment under a provisional appointment designated under 5 CFR 316.403 if the new appointment is permanent and immediately follows the provisional appointment, or

(5) Employment under a temporary appointment that is neither full-time nor the principal employment of the candidate. (For example, if an individual serves on a Federal board or advisory committee for a brief period, this service would not block the payment of a recruitment bonus.)

Rate of Basic Pay. The rate of pay fixed by law or administrative action for an employee's position defined as follows:

(1) Recruitment Bonus. The position to which the employee is or will be newly appointed, before deductions and exclusive of any additional pay of any kind, such as locality-based comparability payments under 5 U.S.C. 5304 or interim geographic adjustments under Section 302 of the Federal Employee Pay Comparability Act of 1990 (Public Law 101-509).

(2) Relocation Bonus. The position to which the employee is being relocated or, in the case of an employee who is entitled to grade or pay retention, the employee's retained rate of pay, before deductions and exclusive of additional pay of any kind.

(3) Retention Allowance. The position held by an employee or, in the case of an employee who is entitled to grade or pay retention, the employee's retained rate of pay, before deductions and exclusive of additional pay of any kind.

Service Agreement. In conjunction with a recruitment bonus, means a written agreement between Rural Development and a newly appointed employee under which the employee agrees to a specified period of employment with the Agency in return for payment of a recruitment bonus. In conjunction with a relocation bonus, means a written agreement between Rural Development and an employee under which the employee agrees to a specified period of employment with the Agency at the new duty station to which relocated in return for payment of a relocation bonus.

§ 2051.55 Authorization for Payment of Recruitment and Relocation Bonuses.

(a) Recruitment Bonus Plan. Rural Development is authorized to pay a recruitment bonus of up to 25 percent of annual basic pay to a newly appointed employee or an individual to whom a written offer of employment has been made by the Agency, provided there is a determination that, in the absence of such a bonus, difficulty would be encountered in filling the position with a high-quality candidate.

(b) Relocation Bonus Plan. Rural Development is authorized to pay a relocation bonus of up to 25 percent of annual basic pay to an employee who must relocate to accept a position in a different commuting area, provided there is a determination that, in the absence of such a bonus, difficulty would be encountered in filling the position with a high-quality candidate.

§ 2051.56 Criteria for Payment of Recruitment/Relocation Bonuses and Approving Documents.

(a) Each bonus will be paid based on a written determination that in the absence of such a bonus, the Agency would encounter difficulty in filling the position with a high-quality candidate.

(b) The determination that a recruitment or relocation bonus may be paid must be made before the recruitment or announcement takes place and must be included in the vacancy announcement before consideration will be given to allowing one. Relocation bonuses have no effect on an employee's entitlement to relocation expenses under the General Services Administration's Federal Travel Regulations and should not be paid in lieu of reimbursing an employee for such expenses. (Revised 09-27-06, PN 402.)

(c) In determining whether a recruitment or relocation bonus should be paid and in determining the amount of any such payment, consider factors such as the following:

- (1) The success of recent efforts to recruit candidates for similar positions, including indicators such as offer acceptance rates, the proportion of positions filled, and the length of time required to fill similar positions;
- (2) Recent turnover in similar positions;

§ 2051.56(c) (Con.)

(3) Labor market factors that may affect the ability of the agency to recruit candidates for similar positions now or in the future;

(4) Special qualifications needed for the position; and

(5) For recruitment bonuses, also consider the practicality of using the superior qualifications appointment authority provided by 5 U.S.C. 5333 and 5 CFR 531.203(b) alone, or in combination with a recruitment bonus.

(d) Exhibit A, Justification/Determination Worksheet for Payment of a Recruitment or Relocation Bonus, will be used for guidance in preparing written justifications.

§ 2051.57 Payment of Recruitment and Relocation Bonuses.

(a) A recruitment or relocation bonus will be calculated as a percentage of the employee's rate of annual pay (not to exceed 25 percent), and paid as a lump sum. Bonuses are not considered as part of an employee's rate of basic pay for any purpose.

(b) Before a relocation bonus can be paid, the employee must have established residence in the new commuting area.

(c) Recommending officials must complete Form AD-1073, Recommendation and Approval of a Recruitment/Relocation Bonus or Retention Allowance, and submit it, along with a written justification, to a higher level official for review and approval.

(d) Funding of payments for approved recruitment and relocation bonuses is the responsibility of the requesting organization.

(e) Final review and approval authority for recruitment and relocation bonuses are retained by the Deputy Administrator for Operations and Management. The authority may be redelegated to the Assistant Administrator for Human Resources and the Chief, Field Services Branch, in St. Louis, Missouri. The National Office Human Resources Office will perform an initial review and recommendation for National Office employees. The St. Louis Field Services Branch will perform an initial review and recommendation for St. Louis employees. State Offices will forward requests to the St. Louis Field Services Branch for an initial review and recommendation.

§ 2051.58 Service Agreements.

(a) Before a recruitment or relocation bonus may be paid, the employee must sign Form AD-1074, Service Agreement for Receipt of Payment for a Recruitment/Relocation Bonus.

(b) The minimum period of employment that may be established under the service agreement for a recruitment or relocation bonus is 6 months. A service agreement for a period of employment exceeding 6 months may be established upon consideration of the following: the bonus is for an unusually high percentage of salary, the training and/or orientation time required for the employee's full productivity, exceptional labor market competition exists, work of a project nature must be performed, or other exceptional circumstances. A written justification is required for service agreements for greater than 6 months.

(c) Service under one service agreement will run concurrently with service under any other simultaneous or subsequent service agreements in effect.

(d) A copy of the service agreement will be placed on the left side of the employee's Official Personnel Folder for the period of time specified in the service agreement. A second copy will be attached to the Form AD-1073.

§ 2051.59 Repayment of Recruitment and Relocation Bonuses.

(a) Except as provided in §2051.59(e) and (f) of this Instruction, an employee who fails to complete the period of employment established under a service agreement shall be indebted to the Federal Government and shall repay the recruitment bonus on a pro rata basis. The amount to be repaid will be determined by providing credit for each full month of employment completed by the employee under the service agreement.

(b) Failure to complete the period of employment established under a service agreement in conjunction with a recruitment bonus occurs when the employee's service terminates before the employee completes the period of employment specified in the service agreement.

(c) Failure to complete the period of employment established under a service agreement in conjunction with a relocation bonus occurs when the employee's service at the new duty station terminates before the employee completes the period of employment specified in the service agreement.

§ 2051.59 (Con.)

(d) Amounts owed by an employee under this section will be recovered from the employee under USDA regulations for collection of offset from an indebted government employee under 5 U.S.C. 5514 and 5 CFR Part 550 Subpart K.

(e) The § 2051.59(a) of this Instruction does not apply when an employee fails to complete a period of employment established under a service agreement because the employee is involuntarily separated, or because of a written determination that it is necessary to relocate the employee to a position in a different commuting area.

(f) When an employee is promoted or reassigned to a position with greater promotion potential in another USDA agency, the service agreement will be transferred with the employee and no repayment will be required by Rural Development. However, if the employee then fails to complete the remainder of the service agreement with the new USDA agency, the pro rata payment for the unexpired service agreement must be made to Rural Development.

(g) When an employee is reassigned to a position with no greater promotion potential in another USDA agency, the service agreement will not transfer and the pro rata payment for the unexpired service agreement must be made to Rural Development.

(h) A right of recovery of an employee's debt under 5 U.S.C. 5514 may be waived in whole or in part if it is determined that recovery would be against equity and good conscience or against the public interest.

§ 2051.60 Retention Allowances.

(a) Retention Allowance Plan. Rural Development is authorized to pay a retention allowance of up to 25 percent of basic pay to a current employee. The following provisions apply:

(1) A written determination must show that the unusually high or unique qualifications of the employee or a special need of Rural Development for the employee's service makes it essential to retain the employee, and it is determined that the employee would be likely to leave in the absence of a retention allowance.

(2) Rural Development may also authorize a retention allowance of up to 10 percent of an employee's rate of basic pay for a group or category of employees, based on a written determination that the category of employees has unusually high or unique qualifications or Rural Development has special needs.

(3) Retention allowances are paid in the same manner and at the same time as basic pay. The allowance will be paid at an hourly rate for each hour during which an employee receives basic pay. It is not considered as part of an employee's rate of basic pay for any purpose.

(b) Criteria for Payment of Retention Allowances.

(1) An employee must have completed 1 year of continuous service with the Agency 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 relocation bonus, whichever occurs later.

(2) A retention allowance may be paid to an employee only if the employee is likely to leave Federal service for employment outside the executive, legislative or judicial branches of the Federal Government.

(3) A retention allowance will not be authorized for an employee if or to the extent that such an allowance, when added to the employee's estimated aggregate compensation, as defined in 5 CFR 530.202 would cause the aggregate compensation actually received by the employee during the calendar year to exceed the rate payable for Level I of the Executive Schedule at the end of the calendar year.

(4) In determining whether a retention allowance should be paid, and in determining the amount of any such payment, the following factors will be considered:

(i) 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;

§ 2051.60(b)(4) (Con.)

- (ii) The availability in the labor market of candidates for employment who, with minimal training or disruption of services to the public, could perform the full range of duties and responsibilities assigned to the position held by the employee;
- (iii) The likely duration of the retention allowance;
- (iv) The likely effects of such a payment on the morale of co-workers;
- (v) Funding availability;
- (vi) The current and expected performance level of the employee; and
- (vii) The relationship of a retention allowance to such payments as previous recruitment or relocation bonuses for which a service agreement has been completed, salary based on superior qualifications, performance awards, etc. that affect the aggregate monies received by the employee.

(5) Exhibit B, Justification/Determination Worksheet for Payment of a Retention Allowance, will be used as a guide in preparing written justifications.

§ 2051.61 Payment of Retention Allowances.

- (a) The review and approval to pay a retention allowance will be made by an official higher than the official who made the initial recommendation unless there is no official higher in the agency. The delegation of authority for final approval of Rural Development's retention allowances is provided in § 2051.53 of this Instruction.
- (b) Recommending officials must complete Form AD-1073, and submit it, along with a written justification, to a higher level official for review and final approval.
- (c) Funding of payments for approved retention allowances is the responsibility of the requesting organization.

(d) Final review and approval authority for retention allowances are retained by the Deputy Administrator for Operations and Management. The authority may be redelegated to the Assistant Administrator for Human Resources and the Chief, Field Services Branch, in St. Louis, Missouri. The National Office Human Resources Office will perform an initial review and recommendation for National Office employees. The St. Louis Field Services Branch will perform an initial review and recommendation for St. Louis employees. State Offices will forward requests to the St. Louis Field Services Branch for an initial review and recommendation.

(e) Payment of a retention allowance may be continued as long as the conditions giving rise to the original determination to pay the allowance still exist. However, at least annually, each determination to pay an allowance will be reviewed to determine whether the payment is still warranted. This determination will be certified in writing by the final approving official.

(f) A written notice of each retention allowance authorization or reauthorization will be provided to the employee involved. The notice will contain the percent of salary added, the expected duration of the allowance and specific dates covered, and the provisions regarding early termination or reduction of the retention allowance.

§ 2051.62 Reduction or Termination of Retention Allowances.

(a) The reduction or termination of retention allowances may occur at any time.

(b) The authorized amount of a retention allowance must be terminated or reduced to the extent necessary to ensure that an employee's estimated aggregate compensation, as defined in 5 CFR 530.202, does not exceed the rate for Level I of the Executive Schedule at the end of the calendar year.

(c) The payment of a retention allowance will be reduced or terminated when it is determined that:

(1) A lesser amount (or not at all) would be sufficient to retain the employee;

(2) Labor-market factors make it more likely (or reasonably likely) to recruit a candidate with qualifications similar to those possessed by the employee;

- (3) The Agency's need for the services of the employee has been reduced to a level that makes it unnecessary to continue payment at the level originally approved (or at all);
 - (4) Budgetary considerations make it difficult to continue payment at the level originally approved (or at all);
 - (5) The employee leaves the position for which the allowance was authorized; or
 - (6) The employee's performance falls below Level 3 (the fully successful or equivalent level of performance).
- (d) Notice of early termination or reduction of a retention allowance must be sent in writing to the employee 30 days before the effective date of such action.
- (e) The reduction or termination of a retention allowance may not be appealed. However, this does not extinguish or lessen any right or remedy available under subchapter II of Chapter 12 of title 5, United States Code (Office of Special Counsel provisions), or any of the discrimination laws and provisions referred to in 5 U.S.C. 2302(d).

§ 2051.63 Records.

Each determination to pay a recruitment bonus, relocation bonus, or retention allowance will be documented on Form AD-1073. A copy of this form, along with the written justification, will be maintained by the final approving authority and made available for review upon request. State Offices will also maintain a copy of each request and final determination.

§ 2051.64 Reports.

The Assistant Administrator for Human Resources' National Office will generate an annual retention allowance report based on Fiscal Year to evaluate the use of these authorities.

§§ 2051.65 - 2051.100 [Reserved]

Attachments: Exhibits A and B

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Justification/Determination Worksheet for Payment of a Recruitment or Relocation Bonus

Each bonus paid shall be based on a written determination that, in the absence of such a bonus, the Agency would encounter difficulty in filling the position with a high-quality candidate. Such determinations shall be made before the employee actually enters on duty in the position for which he or she was recruited or to which he or she is being relocated.

In determining whether a recruitment or relocation bonus is justified and the amount to be paid, please comment on the following factors, as applicable to your request:

- (1) Comment on the success of recent efforts to recruit high-quality candidates for similar positions, including indicators such as offer acceptance rates, the proportion of positions filled, and the length of time required to fill similar positions.
- (2) Discuss recent turnover in similar positions.
- (3) Discuss labor-market factors that may affect the ability of the Agency to recruit high-quality internal or external candidates for similar positions now or in the future (may include such factors as salary ranges of comparable positions, scarcity of skills, emerging technology, etc.)
- (4) Discuss any special qualifications needed for the position.
- (5) For recruitment bonuses, discuss the practicality of using the superior qualifications appointment authority (provided by 5 U.S.C. 5333 and 531.203(b)) alone or in combination with a recruitment bonus.
- (6) Discuss funding availability.
- (7) List the positive and negative impacts on the morale of current employees.
- (8) For bonuses for temporary relocations, discuss whether it could be more cost-effective to pay per diem for a detail.

- (9) Expand on the attractiveness of the duty station in such terms as remoteness, cost of living, community amenities, etc.
- (10) Expand on the urgency of filling the position.

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**Justification/Determination Worksheet for Payment of
a Retention Allowance**

Each retention allowance paid will be based on a written determination that the unusually high or unique qualifications of the employee or a special need of the Agency for the employee's services 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 branches of the Federal Government.

In determining whether a retention allowance is justified, and the amount to be paid, please provide comments on the following factors, as applicable to your request:

- (1) Expand on 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.
- (2) Discuss the availability in the labor market of candidates who, with minimal training or disruption of services to the public, could perform the full range of duties and responsibilities assigned to the position held by the employee.
- (3) Discuss the likely duration of the retention allowance.
- (4) Discuss likely effects of such payment on the morale of co-worker.
- (5) Discuss funding availability.
- (6) Expand on the current and expected performance level of the employee.
- (7) Discuss the relationship of a retention allowance to such payments as previous recruitment or relocation bonuses for which a service agreement has been completed; salary based on superior qualifications, performance awards, etc. that affect the aggregate monies received by the employee.
- (8) Provide any additional comments and justification(s) in support of this request.

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