



OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 575

[Docket ID: OPM-2023-0027]

RIN 3206-AO36

Recruitment and Relocation Incentive Waivers

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing a final rule to expand the authority to approve waivers of the normal payment limitations on recruitment and relocation incentives. An expansion of the waiver approval authority provides agencies with access to higher payment limitations for these flexibilities without requesting approval from OPM. In addition, this final rule gives agencies flexibility to set the length of the required service period for recruitment incentives to a period less than 6 months but not more than 4 years, which aligns the service requirements for recruitment incentives with those for relocation incentives.

DATES: This final rule is effective [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

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SUPPLEMENTARY INFORMATION:

Overview

On November 15, 2023, OPM issued a proposed rule in the Federal Register at 88 FR 78243¹ to expand the authority to approve waivers of the normal payment limitations on recruitment and relocation incentives. In addition, the rule proposed to give agencies flexibility to set the length of the required service period for recruitment incentives to a period less than 6

¹ See 88 FR 78243 (November 15, 2023).

months but not more than 4 years, which would align the service requirements for recruitment incentives with those for relocation incentives and provide agencies with additional flexibility in taking advantage of this incentive as a recruitment tool. Finally, OPM proposed revising several sections to use gender neutral language.

The 60-day comment period on the proposed rule ended on January 16, 2024. After consideration of public comments, OPM is issuing a final rule that adopts the proposed changes to the recruitment and relocation incentive regulations except OPM is not revising any sections to use gender neutral language. This final rule is effective [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*.]

Background

Section 101 of the Federal Workforce Flexibility Act of 2004 (Act) (Public Law 108-411, October 30, 2004) amended 5 U.S.C. 5753 and 5754 by providing enhanced authorities to pay recruitment, relocation, and retention incentives. Congress originally provided the authority to pay such incentives under the Federal Employees Pay Comparability Act of 1990 (Public Law 101-509, November 5, 1990). In the 2004 Act, Congress expanded the circumstances under which these flexibilities may be paid and enabled agencies to make the payments in more ways to enhance their desired effect in assisting Federal agencies' efforts to recruit and retain the kind of workforce needed in the 21st century. OPM's regulations at 5 CFR part 575, subparts A, B, and C, implement these authorities.

Recruitment Incentives

Under 5 U.S.C. 5753 and 5 CFR part 575, subpart A, an agency may pay a recruitment incentive to an employee newly appointed to a General Schedule or other covered position in the Federal service when the agency determines the position is likely to be difficult to fill in the absence of an incentive. (See 5 CFR 575.105(a).) The employee must sign an agreement to fulfill a period of service with the agency. A recruitment incentive may not exceed 25 percent of the employee's annual rate of basic pay in effect at the beginning of the service period, multiplied by

the number of years (including fractions of a year) in the service period (not to exceed 4 years).

A recruitment incentive may be paid as an initial lump-sum payment at the beginning of the service period, in installments throughout the service period, as a final lump-sum payment upon completion of the service period, or in a combination of these methods. (See 5 CFR 575.109.)

OPM has provided a fact sheet with additional information on recruitment incentives.² The fact sheet will be updated to reflect the changes made by this final rule before the effective date.

Relocation Incentives

Under 5 U.S.C. 5753 and 5 CFR part 575, subpart B, an agency may pay a relocation incentive to a current employee who must relocate to accept a General Schedule or other covered position in a different geographic area (permanently or temporarily) if the agency determines that the position is likely be difficult to fill in the absence of an incentive.³ (See 5 CFR 575.205(a).)

The employee must sign an agreement to fulfill a period of service with the agency. Like a recruitment incentive, a relocation incentive may not exceed 25 percent of the employee's annual rate of basic pay in effect at the beginning of the service period multiplied by the number of years (including fractions of a year) in the service period (not to exceed 4 years). The incentive may be paid as an initial lump-sum payment at the beginning of the service period, in installments throughout the service period, as a final lump-sum payment upon completion of the service period, or in a combination of these methods. (See 5 CFR 575.209.) OPM has provided a fact sheet with additional information on relocation incentives.⁴ The fact sheet will be updated to reflect the changes made by this final rule before the effective date.

Amendments to Recruitment and Relocation Incentive Regulations

Recruitment and Relocation Incentive Waivers

² Office of Personnel Management. "Fact Sheet: Recruitment Incentives." <https://www.opm.gov/policy-data-oversight/pay-leave/recruitment-relocation-retention-incentives/fact-sheets/recruitment-incentives/>.

³ Relocation incentives under 5 U.S.C. 5753 and 5 CFR part 575, subpart B are distinct from relocation allowances under the General Services Administration's Federal Travel Regulation. (See 41 CFR part 302.)

⁴ Office of Personnel Management. "Fact Sheet: Relocation Incentives." <https://www.opm.gov/policy-data-oversight/pay-leave/recruitment-relocation-retention-incentives/fact-sheets/relocation-incentives/>.

As described in the “Background” section above, agencies have the authority to approve a recruitment or relocation incentive for payments of up to 25 percent of an employee’s annual rate of basic pay times the number of years in a service agreement (not to exceed 4 years or 100 percent of annual basic pay). However, a waiver is required when an agency would like to exceed this payment limit to make larger payments over shorter service agreement lengths. Previously, agencies were required to submit a waiver request to OPM if they wanted to offer a recruitment or relocation incentive in excess of the normal payment limitations. For example, a waiver has not been required for an agency to pay a recruitment or relocation incentive of up to 25 percent of annual basic pay for a 1-year service agreement, 50 percent of basic pay for a 2-year service agreement, or 100 percent of basic pay for a 4-year service agreement. However, an agency has had to seek a waiver from OPM to pay a recruitment or relocation incentive of 50 percent of annual basic pay for a 1-year service agreement or 100 percent of annual basic pay for a 2-year service agreement. OPM has provided a fact sheet on calculating maximum recruitment and relocation incentives for service periods of various lengths.⁵ The fact sheet will be updated to reflect the changes made by this final rule before the effective date.

Upon the effective date of this final rule, agencies will have the authority to waive the normal limits and approve a recruitment or relocation incentive of up to 50 percent of an employee’s annual rate of basic pay times the number of years in a service agreement (not to exceed 100 percent of annual basic pay), based on a critical agency need. Specifically, revised sections 5 CFR 575.109(c) and 575.209(c) allow an agency to waive the limits for a recruitment or relocation incentive, respectively, under specified conditions. Under this final rule, a waiver determination must include a description of the critical agency need the proposed recruitment or relocation incentive would address. The authorized agency official must determine that the

⁵ Office of Personnel Management. “Fact Sheet: Calculating Maximum Recruitment and Relocation Incentives for Service Periods of Various Lengths.” <https://www.opm.gov/policy-data-oversight/pay-leave/recruitment-relocation-retention-incentives/fact-sheets/calculating-maximum-recruitment-and-relocation-incentives-for-service-periods-of-various-lengths/>.

competencies required for the position(s) are critical to the successful accomplishment of an important agency mission, project, or initiative (e.g., programs or projects related to a national emergency or implementing a new law or critical management initiative). To assist agencies in using the waiver authority, OPM has provided waiver request templates for recruitment incentives⁶ and relocation incentives.⁷ These templates will be updated to reflect the changes made by this final rule.

We note that 5 U.S.C. 5754 does not permit the expansion of the waiver authority for retention incentives found at 5 CFR part 575, subpart C. Therefore, retention incentives were not included in the proposed rule and are not addressed in this final rule.

Recruitment Incentive Service Agreements

This final rule amends 5 CFR 575.110(a) to remove the minimum 6-month required service period for recruitment incentives. Under the final rule, a recruitment incentive service agreement could be any length up to 4 years, consistent with the allowable service agreement lengths for relocation incentives at 5 CFR 575.210(a). For example, this allows an agency to determine that a summer internship position is likely to be difficult to fill and authorize a recruitment incentive for an intern with a 3-month service agreement.

Other Revisions

This final rule does not adopt the proposed changes to several sections of the regulations to use gender neutral language. These proposed changes were contained at 5 CFR 575.102, 5 CFR 575.110(f), 5 CFR 575.111(e), 5 CFR 575.111(f), 5 CFR 575.210(f), 5 CFR 575.211(e), and 5 CFR 575.211(f). The proposed changes were not adopted because they are inconsistent with the Administration's policy regarding gender ideology.⁸

⁶ Office of Personnel Management. "Recruitment Incentive Waiver Template." <https://www.opm.gov/policy-data-oversight/pay-leave/recruitment-relocation-retention-incentives/fact-sheets/recruitment-incentive-waiver-template.pdf>.

⁷ Office of Personnel Management. "Relocation Incentive Waiver Template." <https://www.opm.gov/policy-data-oversight/pay-leave/recruitment-relocation-retention-incentives/fact-sheets/relocation-incentive-waiver-template.pdf>.

⁸ See Executive Order 14168, "Defending Women From Gender Ideology Extremism and Restoring Biological Truth to the Federal Government," 90 FR 8615 (January 20, 2025).

This final rule also makes minor typographical edits to the Authority for part 575 to conform with the requirements of 1 CFR part 21, subpart B. No legal authorities for part 575 are added or removed.

Comments on the Proposed Rule

OPM reviewed and carefully considered the public comments received in response to the proposed rule. OPM received 11 discrete submissions during the 60-day public comment period from 7 individuals, 2 organizations, and 2 Federal agencies regarding the substance of the proposed rule.⁹ The comments are summarized in the sections below.

Maximum Incentive Amounts

One commenter stated that providing larger recruitment or relocation incentive amounts would be helpful. Comment 03. The commenter wrote, “[t]o meet staffing and recruitment needs, agencies need to be able to provide larger hiring/relocation incentives . . .”

OPM is unable to make this change through regulation because the maximum recruitment and relocation incentive amount is established by law. Under 5 U.S.C. 5753(c)(1) and 5753(d)(1), a recruitment or relocation incentive may not exceed 25 percent of the employee’s annual rate of basic pay in effect at the beginning of the service period, multiplied by the number of years (including fractions of a year) in the service period (not to exceed 4 years). However, under 5 U.S.C. 5753(e) and this final rule, agencies now have the authority to waive this limit and approve a recruitment or relocation incentive of up to 50 percent of an employee’s annual rate of basic pay multiplied by the number of years in a service agreement (not to exceed 100 percent of annual basic pay), based on a critical agency need without requesting prior OPM approval.

⁹ OPM determined one comment was beyond the scope of the proposed changes; that comment is not addressed in this final notice. See Comment 07 at <https://www.regulations.gov/comment/OPM-2023-0027-0007>. A reference at the end of a comment quotation or paraphrase provides the location of the item in the public record (i.e., the two-digit number associated with the location in the docket). Comments filed in response to the proposed rule are available at <https://www.regulations.gov/comment/OPM-2023-0027-00nn>, where nn is the comment number.

One commenter, who was generally supportive of the proposed rule, stated that the proposed rule would allow a relocation incentive of 50 percent for up to 4 years. Comment 06. We appreciate the commenter's support of the proposed rule. To clarify, under 5 U.S.C. 5753(e)(2), the maximum incentive allowable must in no event exceed 100 percent of the annual rate of basic pay of the employee at the beginning of the service period. This commenter stated that the proposal would greatly aid the agency's ability to relocate and retain experienced employees in Puerto Rico. We also note that agencies may pay an extended assignment incentive (EAI)¹⁰ under 5 U.S.C. 5757 and implementing regulations at 5 CFR part 575, subpart E to eligible Federal employees assigned to positions located in a territory or possession of the United States, the Commonwealth of Puerto Rico, or the Commonwealth of the Northern Mariana Islands. An EAI is meant to assist agencies in retaining experienced, well-trained employees in these locations for a longer period than the employee's initial tour of duty.

One commenter stated, "The proposed rule does not explain the rationale or evidence for setting the maximum payment limit at 50 percent of an employee's annual rate of basic pay multiplied by the number of years in a service agreement (not to exceed 100 percent of annual basic pay)." Comment 08. The commenter continued, "This seems to be an arbitrary amount, and it is unclear how it relates to the market value or the performance expectations of the employees who receive the incentives."

The payment limits are set by law. Under 5 U.S.C. 5753(c) and 5753(d), a recruitment or relocation incentive may not exceed 25 percent of the employee's annual rate of basic pay in effect at the beginning of the service period, multiplied by the number of years (including fractions of a year) in the service period (not to exceed 4 years). With a waiver provided under 5 U.S.C. 5753(e), this cap may be increased to up to 50 percent, based on a critical agency need,

¹⁰ Office of Personnel Management. "Fact Sheet: Extended Assignment Incentives." <https://www.opm.gov/policy-data-oversight/pay-leave/pay-administration/fact-sheets/extended-assignment-incentives/>.

as long as the total incentive does not exceed 100 percent of the employee's annual rate of basic pay. The statute is supplemented by OPM's regulations at 5 CFR 575.109 and 575.209.

Also, while the statute sets the maximum recruitment and relocation incentive amounts, agencies have the flexibility to provide payment amounts that are below the maximum. As provided by 5 CFR 575.107(a)(4) and 575.207(a)(4), agency recruitment and relocation incentive plans must include any requirements for determining the amount of an incentive payment.

Expanding the Number of Positions Eligible for Incentives

A commenter stated that to meet staffing and recruitment needs, agencies need to be able to expand the number of positions that are eligible for recruitment and relocation incentives. Comment 03. Agencies determine the individuals who will be offered recruitment or relocation incentives. An agency may pay a recruitment incentive to an employee newly appointed to a General Schedule or other covered position in the Federal service when the agency determines the position is likely to be difficult to fill in the absence of an incentive. An agency may pay a relocation incentive to a current employee who must relocate to accept a General Schedule or other covered position in a different geographic area (permanently or temporarily) if the agency determines that the position is likely to be difficult to fill in the absence of an incentive. (See 5 CFR 575.106(b) and 575.206(b).) Eligible categories of employees are listed in 5 CFR 575.103.

Limiting Applicability

One agency suggested that this authority would be more useful if limited to agencies with documented critical needs. Comment 04. The agency wrote, "This will ensure that we aren't competing with everyone as we currently are now." We are not adopting this suggestion because we believe agencies are in the best position to determine if they have a critical need and to appropriately document that determination. Agencies are most knowledgeable about their own mission, projects, and initiatives that could meet the critical need criterion. Further, requiring OPM to make this determination is less efficient, as it demands additional time and resources for OPM to analyze agency waiver requests, which could delay use of incentives to address urgent

agency recruitment efforts. We note that agencies have been approving recruitment and relocation incentives under the normal payment limitations for more than 20 years, so they have accumulated quite a bit of experience with using these incentives. Over the years, agency requests to OPM for waivers of the normal payment limitations have been somewhat limited, indicating that agencies have been using the waiver authority strategically. Therefore, under this final rule, OPM is allowing any agency that determines there is a critical need to use the waiver authority, as provided in 5 U.S.C. 5753(e). (See 5 CFR 575.109(c)(1) and 575.209(c)(1).) The authorized agency official must determine that the competencies required for the position(s) are critical to the successful accomplishment of an important agency mission, project, or initiative (e.g., programs or projects related to a national emergency or implementing a new law or critical management initiative).

Payment of Recruitment Incentives to Current Federal Employees

Two commenters suggested that the regulations “permit payment of recruitment incentives to current Federal employees.” Comments 14, 15¹¹. Further, they suggested that, “[i]f limitations are required on payment to current Federal employees, then one option would be to add in a limitation that recruitment incentives can only be paid to existing Federal employees once every four or five years.” Under 5 U.S.C. 5753(b)(2)(A), OPM may authorize the head of an agency to pay a recruitment incentive to an individual who is newly appointed as an employee of the Federal Government. In addition, the statute at 5 U.S.C. 5753(b)(2)(B) permits OPM to authorize agencies to pay a recruitment incentive to a current employee (of the same or a different agency) who moves to a position in the same geographic area that is likely to be difficult to fill in the absence of an incentive under circumstances described in OPM’s regulations. However, OPM’s regulations do not prescribe any circumstances that allow the use of recruitment incentives for current employees, except in very narrow situations involving

¹¹ Comment 15 was a resubmission of Comment 9 by the same commenter, so we included only Comment 15 in our review.

certain employees on time-limited appointments. (See definition of “newly appointed” in 5 CFR 575.102.) We appreciate the commenters’ suggestions; however, amending the regulations to permit agencies to pay recruitment incentives to current Federal employees in additional circumstances is outside the scope of the proposed rule. We did not propose such a change for public comment. We appreciate the suggestion and may consider it for possible future proposed regulation.

Other Suggestions

These same two commenters also made suggestions involving special rates under 5 U.S.C. 5305 and 5 CFR part 530, subpart C; availability pay under 5 U.S.C. 5545a and 5 CFR 550.181–550.187, biweekly and annual premium pay limitations under 5 U.S.C. 5547 and 5 CFR 550.105–550.107, basic housing allowances, and retention incentives under 5 U.S.C. 5754 and 5 CFR part 575, subpart C. Comments 14, 15. These program areas are outside the scope of the proposed rule.

Definition of a Critical Agency Need

Two commenters expressed concern about the meaning of “critical agency need” for purposes of recruitment and relocation incentive waivers. Comments 8¹², 10. For example, one commenter said, “The proposed rule does not specify the criteria or standards for determining a critical agency need that would justify a higher payment limit for recruitment or relocation incentives.” Comment 08. The commenter continued, “This could create inconsistency and confusion among agencies and employees, as well as potential abuse or misuse of the waiver authority.”

As provided under the waiver authority at 5 CFR 575.109(c)(1) and 575.209(c)(1), an authorized agency official must determine that the competencies required for the position(s) are critical to the successful accomplishment of an important agency mission, project, or initiative

¹² Comment 8 was a resubmission of Comment 2 by the same commenter, so we included only Comment 8 in our review.

(e.g., programs or projects related to a national emergency or implementing a new law or critical management initiative). We believe these examples are sufficient to describe the phrase “critical agency need” and rely on agencies to apply discretion when determining what needs are critical to the accomplishment of their various missions. In response to the commenter’s concerns about the potential abuse or misuse of the waiver authority, see the discussion in the “Oversight” section.

One of the commenters also stated, “Information on how the agencies define and identify a critical agency need, and what kinds of positions or occupations are eligible for the higher payment limit, should be made public and updated regularly as part of the rule, and it should be accessible to the public and stakeholders.” Comment 08.

We note that agencies have the authority to determine the individuals who will be offered waivers of the normal payment limitations for recruitment or relocation incentives under the criteria provided in the statute and regulations. When agencies authorize a waiver of the normal payment limitations on recruitment and relocation incentives, they process a personnel action and that information is reported to OPM’s Enterprise Human Resources Integration¹³ system consistent with the guidance in chapter 29 of the Guide to Processing Personnel Actions¹⁴. Interested individuals may submit a Freedom of Information Act request for such information to OPM following the procedures outlined in OPM’s guidance¹⁵.

In addition, we note that under 5 CFR 575.113 and 575.213, agencies are required to keep records regarding recruitment and relocation incentive determinations and must make those records available for review upon OPM’s request. Further, OPM has oversight authority under 5 CFR 575.112 and 575.212. Therefore, since OPM reserves the ability to exercise oversight

¹³ Office of Personnel Management. “Enterprise Human Resources Integration.” <https://www.opm.gov/policy-data-oversight/data-analysis-documentation/enterprise-human-resources-integration/>.

¹⁴ Office of Personnel Management. “Chapter 29: Bonuses, Awards and Other Incentives.” <https://www.opm.gov/policy-data-oversight/data-analysis-documentation/personnel-documentation/processing-personnel-actions/gppa29.pdf>.

¹⁵ Office of Personnel Management. “Freedom of Information Act.” <https://www.opm.gov/information-management/freedom-of-information-act/>.

should OPM determine or have reason to believe that agencies are not properly administering these authorities, we have determined that public disclosure of such data is unnecessary.

An agency asked whether the rule would “limit the use of a blanket waiver approval for certain series, locations, etc.” that are deemed by an agency to be critical. Comment 10. Also, an organization commented, “Agencies could more effectively use recruitment and relocation incentives if the law authorizing these payments was amended to allow for occupation-based payments using conditions for similar positions in the private sector.” Comment 11.

An agency may target groups of similar positions (e.g., same occupational series, interdisciplinary positions, titles, or duties) that have been difficult to fill in the past or that are likely to be difficult to fill in the future and may make the required determination to offer a recruitment incentive on a group basis. (See 5 CFR 575.105(b).) Agencies must review each decision to authorize a recruitment incentive for a group of similar positions at least annually to determine whether the positions are still likely to be difficult to fill. This final rule amends 5 CFR 575.109(c)(1) to allow an agency to waive the recruitment incentive payment limitation for a group of employees. Also, we note that the case-by-case determination of a relocation incentive may be waived under the limited conditions in 5 CFR 575.208(b).

Impact on Equal Pay for Similar Work

One commenter noted that the proposed rule does not address the potential impact on equal pay for similar work for Federal employees. Comment 08. The commenter stated, “The increased use of recruitment and relocation incentives could create pay disparities among employees performing similar work.”

As noted in the proposed rule, OPM does not know how agencies will use the additional flexibility provided by this change. It is possible that agencies will approve more recruitment and relocation incentive waivers if they are not required to go through the process of submitting a waiver request to OPM. However, the criteria for approval are not changing, so agencies will still need to determine that the situation meets the critical need and other requirements for approving

a waiver. In other words, approval of a waiver is not automatic and agencies will apply discretion in granting waiver requests. In addition, agencies will need to make determinations about whether they have funds available in their budgets to provide increased incentives. The use of discretionary pay flexibilities such as recruitment and relocation incentives may be limited by agency budgets.

Separation of Functions

In its comments, an association suggested that OPM modify the regulations to include a separation of functions in the pay-setting process. Comment 13. Specifically, the association suggested the following changes:

(A) The persons who have discretion to set, grant or deny recruitment or relocation benefits for a given selection should be restricted from knowing the identity or demographics of the applicant pool for the position at the time they exercise that discretion.

(B) The persons deciding on recruitment or relocation benefits for a given selection should be required to make their decision based on neutral, objective standards, preferably ones set by OPM across-the-board, rather than being permitted to determine decisional factors subjectively or ad hoc.

(C) Hiring agencies should be required to designate positions as eligible for possible recruitment and relocation benefits prior to the vacancy being advertised and should be required to then consider granting recruitment and relocation benefits for all selection made under the advertisement (as opposed to considering providing benefits only when proposed by a selecting official).

We are not adopting these suggestions in the final rule because we believe each agency should have the flexibility to address these issues in the agency's plan, which can provide a framework for the payment of incentives consistent with the approval criteria in law and regulations. However, OPM will consider these suggestions as we develop implementation

guidance for agencies that supports merit-based hiring. This final rule permits individual agencies to determine the specific process for requesting and approving incentives. Before making recruitment and relocation incentive payments, an agency must establish a plan that includes the coverage, approval, and payment criteria specified in OPM's regulations. An agency must make the payments in accordance with statute, regulations, the agency's plan, and OPM processing, documentation, and reporting requirements.

An agency may target groups of similar positions that have been difficult to fill in the past or that may be difficult to fill in the future and make the required determination to offer a recruitment incentive to newly appointed employees on a group basis under 5 CFR 575.105(b). However, an agency generally must make each determination to pay a relocation incentive on a case-by-case basis for each employee as provided in 5 CFR 575.208(a)(2) because the agency must determine that the worksite of the employee's new position is not in the same geographic area as the worksite of the position held immediately before the move. As provided by 5 CFR 575.205(b), a position is considered to be in a different geographic area if the worksite of the new position is 50 or more miles from the worksite of the position held immediately before the move.

Further, agencies must keep a record of each determination to make a recruitment or relocation incentive payment and make such records available for review upon OPM's request. Agencies must ensure their recruitment and relocation workforce reporting submissions meet OPM's reporting standards and are consistent with the Privacy Act¹⁶.

Interaction Between the Waiver Authority and Other Existing Pay Flexibilities

One commenter pointed out that the proposed rule did not discuss how the waiver authority would be coordinated with existing pay flexibilities, including retention incentives, special rates, and setting pay above the minimum of the grade. Comment 08. The commenter stated, "The interaction of these pay flexibilities could have unintended consequences for the pay

¹⁶ 5 U.S.C. 552a.

administration and the employee mobility.” Also, an organization commented, “Agencies should be mindful of what other incentives they can authorize and pair them with recruitment and relocation incentives to increase the strength of their offers.” Comment 11.

We note that agencies may pay recruitment and relocation incentives to employees receiving special rates. This information is addressed in OPM’s fact sheets on recruitment incentives¹⁷ and relocation incentives¹⁸.

Further, agencies may pay a recruitment incentive to an employee whose pay was set above step 1 of the applicable General Schedule grade under the superior qualifications and special needs pay-setting authority. This information is contained in 5 CFR 531.212(d) and in the FAQs on OPM’s website¹⁹. The interaction of various flexibilities agencies may use is also generally addressed in OPM’s guidance on Compensation Flexibilities to Recruit and Retain Cybersecurity Professionals²⁰ and guidance on Pay, Leave, and Workforce Flexibilities for Recruitment and Retention.²¹

In most situations, agencies cannot simultaneously pay multiple incentives. However, under 5 CFR 575.205(e), an agency may commence a relocation incentive service agreement during a period of employment established under a service agreement for a previously authorized retention incentive or for which an employee is receiving previously authorized retention incentive payments without a service agreement. This information also is available in the FAQs on OPM’s website.

Finally, agencies may consider the use of other pay or other non-pay flexibilities when determining the recruitment or relocation incentive payment amount.

¹⁷ Office of Personnel Management. “Fact Sheet: Recruitment Incentives.” <https://www.opm.gov/policy-data-oversight/pay-leave/recruitment-relocation-retention-incentives/fact-sheets/recruitment-incentives/>.

¹⁸ Office of Personnel Management. “Fact Sheet: Relocation Incentives.” <https://www.opm.gov/policy-data-oversight/pay-leave/recruitment-relocation-retention-incentives/fact-sheets/relocation-incentives/>.

¹⁹ Office of Personnel Management. “Recruitment, Relocation & Retention Incentives FAQs.” <https://www.opm.gov/policy-data-oversight/pay-leave/recruitment-relocation-retention-incentives/#url=FAQs>.

²⁰ Office of Personnel Management. “Compensation Flexibilities to Recruit and Retain Cybersecurity Professionals.” <https://www.opm.gov/policy-data-oversight/pay-leave/reference-materials/handbooks/compensation-flexibilities-to-recruit-and-retain-cybersecurity-professionals.pdf>.

²¹ Office of Personnel Management. “Pay, Leave, and Workforce Flexibilities for Recruitment and Retention.” <https://www.opm.gov/policy-data-oversight/pay-leave/pay-and-leave-flexibilities-for-recruitment-and-retention/>.

Oversight

We received multiple comments regarding oversight of agencies' use of recruitment and relocation incentives. Comments 08, 10, 13. For example, one organization expressed concerns about hiring managers using their pay-setting discretion to "effectuate pay discrimination." Comment 13. Another commenter wrote, "The rule does not require agencies to report or document the use of the waivers, nor does it establish any review or audit mechanism to ensure compliance and accountability." Comment 08. Also, an agency stated, "Currently, OPM provides the check and balance for agencies but with the proposed new rule this would no longer be applicable." Comment 10. In addition, the agency requested clarification on what is subject to OPM review and oversight.

In administering the recruitment and relocation incentives program, OPM and agencies have certain oversight and accountability responsibilities. These include adhering to the provisions in the applicable statute and regulations, the requirements governing OPM's delegation authority of personnel management in 5 U.S.C. 1104 and 5 CFR part 250, subpart A, and the applicable workforce reporting requirements in 5 CFR 9.2.

These oversight and accountability controls include the requirements for agencies to designate the officials with authority to waive the recruitment and relocation incentive payment limitation in their recruitment and relocation incentive plans. (See 5 CFR 575.107(a) and 575.207(a).) Also, agencies are required to monitor the use of recruitment incentives under 5 CFR 575.112(a) and monitor the use of relocation incentives under 5 CFR 575.212(a) to ensure that the agency's recruitment and relocation incentive plans and the payment of those incentives are consistent with the statute and regulations.

Further, as provided by 5 CFR 575.112(b) and 5 CFR 575.212(b), if OPM finds that an agency is not paying these incentives consistent with the agency's recruitment and relocation incentive plans and the criteria established under 5 U.S.C. 5753 and OPM's regulations or

otherwise determines that the agency is not using these authorities selectively and judiciously, OPM may—

- (1) Direct the agency to revoke or suspend the authority granted to any organizational component in the agency and, with respect to any category or categories of employees, require that the component obtain approval from the agency’s headquarters level before paying an incentive to such employees; or
- (2) Revoke or suspend the authority granted to the agency under OPM’s regulations for all or any part of the agency and, with respect to any category or categories of employees, require that the agency obtain OPM’s approval before paying an incentive to such employees.

In addition, if OPM finds that a prohibited personnel action may have occurred with respect to authorizing a recruitment or relocation incentive, OPM will refer the matter to the Office of Special Counsel for investigation.

We note that 5 CFR 575.112 and 575.212 address oversight and accountability. In addition, OPM has posted a fact sheet that provides guidance on this topic.²² Also, agencies must report information to the Enterprise Human Resources Integration system on recruitment and relocation incentives when they authorize them, in accordance with chapter 29 of the Guide to Processing Personnel Actions (GPPA)²³.

One agency asked in response to OPM’s proposed revision to 5 CFR 575.106(a)(4) what is now subject to OPM review and oversight under 5 CFR 575.106(a). Comment 10. OPM’s oversight authority for agencies’ use of recruitment incentives is found in 5 CFR 575.112(b). As provided by 5 CFR 575.106(a), this includes OPM oversight of an agency’s determination that a position is likely to be difficult to fill under 5 CFR 575.106(b), approval of a recruitment

²² Office of Personnel Management. “Fact Sheet: Oversight and Accountability.” <https://www.opm.gov/policy-data-oversight/pay-leave/recruitment-relocation-retention-incentives/fact-sheets/oversight-and-accountability/>

²³ Office of Personnel Management. “Chapter 29: Bonuses, Awards and Other Incentives.” <https://www.opm.gov/policy-data-oversight/data-analysis-documentation/personnel-documentation/processing-personnel-actions/gppa29.pdf>.

incentive under 5 CFR 575.105, establishment of criteria for determining the amount of recruitment incentive under 5 CFR 575.109(a) and the length of a service period under 5 CFR 575.110(a), waiver of the limitation of the maximum amount of a recruitment incentive under 5 CFR 575.109(c), and establishment of the criteria for terminating a service agreement under 5 CFR 575.111. OPM's revision to 5 CFR 575.106(a)(4) was limited to removing language regarding requesting a waiver from OPM, which will no longer be required under this final rule.

Service Agreement

An association expressed opposition to requiring a service agreement for employees who receive a recruitment or relocation incentive. Comment 13. Specifically, the association commented, "Applicants should not be restricted to just working at their single hiring agency (rather than remaining in federal service in general), nor should they be financially burdened if forced out by their employing agency prior to a minimum service term."

We note that the service agreement requirement is established by law. Under 5 U.S.C. 5753(c), payment of a recruitment or relocation incentive is "contingent upon the employee entering into a written service agreement to complete a period of employment with the agency." The statute authorizes OPM to, by regulation, prescribe a minimum service period.

However, this final rule does provide agencies with the ability to set the length of the required service period for recruitment incentives to a period of less than 6 months, which aligns the service requirements for recruitment incentives with those for relocation incentives and provides agencies with additional flexibility in taking advantage of this incentive as a recruitment tool. Agencies now will be able to establish service periods of up to 4 years (the maximum length by law at 5 U.S.C. 5753(c)(1)). OPM's regulations also specify that, if a recruitment or relocation incentive service agreement is terminated based on the management needs of the agency, the affected employee is entitled to all incentive payments attributable to completed service and to retain any portion of incentives received attributable to uncompleted service. (See 5 CFR 575.111(a) and (e) and 575.211(a) and (e).)

An agency recommended keeping the 6-month minimum service requirement “because less time than that is not sufficient to monitor performance and may not be the most effective use of government monies if the individual resigns quickly after the payment(s).” Comment 10.

As stated in the Supplementary Information of the proposed rule, OPM believes agencies are in the best position to decide the appropriate length for a recruitment incentive service agreement. Agencies may establish longer minimum periods (up to 4 years) in their recruitment incentives plan. Further, we note that, if an employee resigns from Federal service before completing the required service period and has received recruitment incentive payments in excess of the amount that would be attributable to the completed portion of the service period, the employee must repay the excess amount, except when an authorized agency official waives the requirement to repay the excess amount. (See 5 CFR 575.111.)

Impact on Other Agencies or Positions

One commenter expressed concern that the proposed rule did not address the potential impact on the recruitment and retention of employees in other agencies or in positions that do not receive waivers. Comment 08. The commenter stated, “The higher payment limits could create an imbalance in the supply and demand of talent across the Federal Government, and affect the morale and motivation of employees who do not receive the incentives.”

We note that the additional flexibility provided to agencies in this final rule does not change the fact that agencies must determine to what extent they will use recruitment and relocation incentives, as well as other existing pay flexibilities. As always, agencies must make determinations about whether they have funds available in their budgets to provide waivers of the normal payment limitations. The use of discretionary pay flexibilities such as recruitment and relocation incentives may be limited by agency budgets.

Further, we expect a limited impact on other agencies because relocation incentives generally must be approved on a case-by-case basis and OPM has not received nor approved many recruitment and relocation incentive waiver requests. Since the waiver authority became

effective on May 13, 2005, OPM has received and approved 15 recruitment incentive waivers for 6 agencies and 11 relocation incentive waivers for 4 agencies.

Definition of Basic Pay

Two commenters expressed concern regarding the definition of “basic pay” for purposes of recruitment and relocation incentives. Comments 08, 10. Specifically, one commenter wrote, “The proposed rule does not specify whether the basic pay refers to the base salary or the base salary plus the locality pay.” Comment 08.

For the purpose of calculating a recruitment or relocation incentive, an employee’s rate of basic pay means the rate of pay fixed by law or administrative action for the position to which an employee is or will be appointed before deductions and including any special rate under 5 CFR part 530, subpart C, or similar payment under other legal authority, and any locality-based comparability payment under 5 CFR part 531, subpart F, (commonly referred to as “locality pay”) or similar payment under other legal authority, but excluding additional pay of any other kind. For example, a rate of basic pay does not include additional pay such as night shift differentials under 5 U.S.C. 5343(f) or environmental differentials under 5 U.S.C. 5343(c)(4). (See 5 CFR 575.102 and 575.202.) OPM has provided additional guidance in a fact sheet on calculating maximum recruitment and relocation incentives.²⁴

Pre-Established Range for Recruitment Incentives

One agency requested additional guidance regarding how “an authorized agency official may authorize an official, not lower than the candidate’s supervisor to offer a recruitment incentive to a candidate without further review or approval in any amount within a pre-established range up to the normal payment limitation or higher cap if the agency has an approved waiver.” Comment 10.

²⁴ Office of Personnel Management. “Fact Sheet: Calculating Maximum Recruitment and Relocation Incentives for Service Periods of Various Lengths.” <https://www.opm.gov/policy-data-oversight/pay-leave/recruitment-relocation-retention-incentives/fact-sheets/calculating-maximum-recruitment-and-relocation-incentives-for-service-periods-of-various-lengths/>.

As stated in the proposed rule, we are revising 5 CFR 575.107(b)(2) to state that, when necessary to make a timely offer of employment, an authorized agency official may authorize an official who is not lower than a candidate's supervisor to offer a recruitment incentive to a candidate without further review or approval in any amount within a pre-established range up to the normal payment limitation in 5 CFR 575.109(b) or a higher cap if the agency has approved a waiver to the normal payment limitation under 5 CFR 575.109(c). An agency must designate the officials with this authority in its recruitment incentive plan. An agency also must designate the circumstances under which an official has the authority to approve payment without higher-level approval under 5 CFR 575.107(b)(2) in its recruitment incentive plan. OPM delegates to agencies the authority to designate the officials and determine the circumstances. For example, an agency could permit an official who is not lower than a candidate's supervisor to offer a recruitment incentive of up to 10 percent without further review or approval. Under 5 CFR 575.107(b)(2), an authorized agency official must establish criteria in advance for making such recruitment incentive offers. These determinations are at the discretion of the employing agency, subject to internal recruitment and relocation incentive policies.

Before paying a recruitment incentive, an agency must establish a recruitment incentive plan. (See 5 CFR 575.107.) Amongst other things, the plan must include the designation of officials with authority to review and approve the payment of recruitment incentives and the designation of officials with authority to waive the repayment of a recruitment incentive. Unless the head of the agency determines otherwise, an agency recruitment incentive plan must apply uniformly across the agency.

Frequency of Relocation Incentive Waivers

An agency asked about the frequency of relocation incentive waivers granted by agencies under the amended regulations. Comment 10. Specifically, the agency said, "Does OPM expect these to be very rare, on a case-by-case basis, for truly extenuating circumstances?"

A waiver of the normal payment limitations must be based on a critical agency need. The authorized agency official must determine that the competencies required for the position(s) are critical to the successful accomplishment of an important agency mission, project, or initiative (e.g., programs or projects related to a national emergency or implementing a new law or critical management initiative). OPM expects agencies to use these authorities selectively and judiciously. (See 5 CFR 575.212(b).)

Further, agency determinations to pay a relocation incentive must generally be made on a case-by-case basis. (See 5 CFR 575.208.) However, the case-by-case determination may be waived under the limited conditions in 5 CFR 575.208(b).

OPM Review of Agency Waivers

One organization asked how often OPM would be reviewing agency recruitment and relocation incentives waivers. Comment 11. OPM does not evaluate the use of compensation incentives on a fixed basis. The use of compensation incentives is evaluated routinely by OPM's Office of Merit Systems Accountability and Compliance as an element of a human capital management evaluation of an agency's Talent Management System and may be a limited-focus evaluation. Evaluations are targeted based on several factors, including data that reflects routine and/or on-going usage or changes in usage.

OPM Report

One organization asked if OPM would publish a regularly scheduled report regarding agencies' use of recruitment, relocation, and retention incentives. Comment 11. Section 101(c) of the Federal Workforce Flexibility Act of 2004 (Public Law 108-411, October 30, 2004) required OPM to submit an annual report to specified committees of the United States Senate and the United States House of Representatives on agencies' use of the recruitment, relocation, and retention incentive authorities in 5 U.S.C. 5753 and 5754 during calendar years 2005–2009. The

reports provided data on and described each agency's use of the incentives during the calendar year. The reports are available on the OPM website.²⁵

OPM does not currently intend to publish additional reports detailing Federal agencies' use of recruitment, relocation, and retention incentives. However, OPM, through its Merit Systems Accountability and Compliance Office, will oversee the effectiveness of recruitment, relocation and retention incentives as an element of its human capital management evaluations, and may publish such reports in the future.

Authorized Agency Official

An agency asked, "In 575.107(b)(1), will there be a standard that OPM identifies so that there will be consistency of how an authorized official is identified, such as a written delegation of authority?" Comment 10. OPM's regulations on agency recruitment incentive plans and approval levels are located at 5 CFR 575.107. As described in 5 CFR 575.107(a)(1), agencies must designate officials with authority to review and approve payment of recruitment incentives in their recruitment incentive plan.

Meaning of "Timely"

In the proposed rule, we proposed revising 5 CFR 575.107(b)(2) to state that, when necessary to make a timely offer of employment, an authorized agency official may authorize an official who is not lower than a candidate's supervisor to offer a recruitment incentive to a candidate without further review or approval in any amount within a pre-established range up to the normal payment limitation in 5 CFR 575.109(b) or a higher cap if the agency has approved a waiver to the normal payment limitation under 5 CFR 575.109(c). An agency asked, "In 575.107(b)(2), when the proposed rule mentions timely, will there be a standard or suggestion of what is defined as timely?" Comment 10. OPM is not specifying a specific time period that would be considered "timely" for the purpose of the regulations, but agencies should follow

²⁵ Office of Personnel Management. "Memos & Reports." <https://www.opm.gov/policy-data-oversight/pay-leave/recruitment-relocation-retention-incentives/#url=Memos-Reports>.

OPM’s applicable guidance regarding the timeframes we typically expect for certain hiring actions. We note that the Merit Hiring Plan issued pursuant to Executive Order 14170 seeks to decrease the government-wide time-to-hire to under 80 days.²⁶

Suggestions for Being a Model Employer

In our proposed rule, we asked for input on additional ways that the Federal Government can be a model employer with respect to recruitment and relocation incentives and how the Federal Government can use recruitment and relocation incentives more effectively and efficiently. An agency responded that “the private sector has [the] ability to be more creative with ‘sign-on’ offers; not only is money given but also non-monetary items such as iPads, tool allowances, trips, etc.” Comment 10. The agency also expressed the view that the general Federal benefits are not highlighted sufficiently.

We appreciate these comments. Non-monetary incentives are beyond the scope of this rulemaking; however, OPM has developed guidance²⁷ addressing the various aspects of the Federal employee compensation package, which should help highlight general Federal benefits.

Agency Data Reporting

An organization asked what data should be reported by agencies to OPM’s central personnel data system. Comment 11. As noted in the Supplementary Information of the proposed rule and earlier in this final rule Supplementary Information, agencies are required to report to OPM’s central data system when they authorize a waiver of the normal recruitment or relocation incentive payment limitations using legal authority code VPO. Also see the data elements that agencies must report when authorizing a recruitment incentive (nature of action code 815) or relocation incentive (nature of action code 816) on page 3-18 of the Guide to Human Resources

²⁶ See 90 FR 8621 (January 20, 2025); White House Domestic Policy Council & OPM, *Merit Hiring Plan*, at pp.10-11 (May 29, 2025).

²⁷ Office of Personnel Management. “Federal Employee Compensation Package.” <https://www.opm.gov/policy-data-oversight/pay-leave/pay-administration/fact-sheets/federal-employee-compensation-package/>.

Reporting. Also, see the Dynamics data element requirements of the Guide to Human Resources Reporting at Chapter 3: HR Data Feed²⁸ and Chapter 4: Payroll Data Feed²⁹.

OPM Guidance

An organization asked if OPM intends to provide guidance to agencies on this authority. Comment 11. In addition to this final rule, OPM will update its posted guidance to incorporate the expanded authority. We note that OPM has waiver request templates³⁰ that will be modified to address the expanded agency waiver authority.

Best Practices

An organization asked if OPM will provide information on best practices for preventing waste, fraud, and abuse with regard to recruitment and relocation incentive payments. Comment 11. OPM, through its Merit Systems Accountability and Compliance Office, plans to actively oversee the effectiveness of recruitment and relocation payments as an element of its human capital management evaluations, and, in the course of this oversight of these programs, may provide such best practices for preventing waste, fraud, and abuse in agency recruitment or relocation incentive programs. We do not intend to provide additional information regarding oversight and accountability for recruitment and relocation incentives at this time, but may do so in the future.

Suggestions

One agency suggested that there be a minimum required service period when a recruitment or relocation incentive is approved at a rate of 50 percent of the employee's annual pay rate. Comment 10.

Under 5 U.S.C. 5753(d), a recruitment or relocation incentive may not exceed 25 percent of the employee's annual rate of basic pay in effect at the beginning of the service period,

²⁸ Office of Personnel Management. "Chapter 3: HR Data Feed." https://www.opm.gov/policy-data-oversight/data-analysis-documentation/data-policy-guidance/hr-reporting/ghrr4-4_ch3.pdf.

²⁹ Office of Personnel Management. "Chapter 4: Payroll Data Feed." https://www.opm.gov/policy-data-oversight/data-analysis-documentation/data-policy-guidance/hr-reporting/ghrr4-4_ch4_payroll.pdf.

³⁰ Office of Personnel Management. "Fact Sheets." <https://www.opm.gov/policy-data-oversight/pay-leave/recruitment-relocation-retention-incentives/#url=Fact-Sheets>.

multiplied by the number of years (including fractions of a year) in the service period (not to exceed 4 years). With a waiver provided under 5 U.S.C. 5753(e), this cap may be increased to up to 50 percent, based on a critical agency need, as long as the total incentive does not exceed 100 percent of the employee's annual rate of basic pay. Therefore, in response to the specific comment above, the minimum service period for a 50 percent incentive under a waiver is 1 year.

An organization provided numerous recommendations for improving the use of recruitment and relocation incentives. Comment 11. OPM will consider these suggestions as we develop any implementation guidance. Various recommendations from the organization are listed below.

- “OPM should analyze the effect of current federal pay caps and study the viability of occupation-based payments for further Congressional consideration.” This is outside the scope of this rulemaking since it is suggesting actions in support of legislative changes.
- OPM should provide implementation guidance to agency Chief Human Capital Officers to facilitate agency streamlining of the initiation and approval process for recruitment and relocation incentives.
- OPM should supply additional training to agencies on approving waivers based on OPM's experience reviewing and approving agency waiver requests.
- OPM should collect data on recruitment and relocation incentives to determine what payment amounts and lengths of service yield quality hires. Analysis of this data would allow agency human resource officers to make a business case to agency leaders on the further use of recruitment and relocation incentives as part of agency human capital plans.
- Agencies should budget for the use of recruitment and relocation incentives so they can be authorized more quickly. Although agency budgets are tight and differ in size, “failure to provide access to funds for the use of these incentives will ultimately cause agencies to lose out on talent for positions where an incentive is justified.”

- “OPM should update and provide training on the proper use of recruitment and relocation incentives for agency officials.”
- “Federal agencies should analyze existing procedures and update them to promote internal equity and prevent bias and abuse.”

Expected Impact of This Final Rule

A. Statement of Need

OPM serves as the chief human resources agency and personnel policy manager for the Federal Government. OPM provides human resources leadership and support to Federal agencies and helps the Federal workforce achieve their goals as they serve the American people. OPM oversees merit-based and inclusive hiring into the civil service, directs human resources and employee management services, administers retirement benefits, manages health insurance and other insurance programs, and manages personnel vetting policies and processes.

In its March 2021 report³¹, the National Academy of Public Administration (NAPA) recommended that OPM adopt a more decentralized and risk-based approach to executing its transactional approval and oversight responsibilities. Specifically, NAPA recommended that OPM delegate, to the maximum extent possible, decision-making authorities to agencies, and conduct cyclical reviews to verify that appropriate actions were taken.

Permitting agencies to review and approve payment limit waivers at the agency level will reduce administrative burden on agencies and increase the efficiency of using recruitment and relocation incentives. This will allow agencies to move more quickly in hiring new employees and relocating those who are moving into positions that are likely to be difficult to fill. Such efficiency could be especially helpful in emergency or other critical situations in which recruiting new employees or relocating current employees rapidly is necessary. E.O. 14170

³¹ National Academy of Public Administration. “Elevating Human Capital: Reframing the U.S. Office of Personnel Management’s Leadership Imperative.” <https://www.volckeralliance.org/sites/default/files/attachments/OPM-Final-Report-National-Academy-of-Public-Administration.pdf>.

states, “American citizens deserve an excellent and efficient Federal workforce that attracts the highest caliber of civil servants committed to achieving the freedom, prosperity, and democratic rule that our Constitution promotes.” Using recruitment incentives can be a useful tool in achieving this goal.

B. Impact

It is important to understand that waivers to the normal payment limitations do not alter the maximum total amount of a recruitment or relocation incentive that may be paid to an individual employee. Agencies have the authority to approve a recruitment or relocation incentive for payments of up to 25 percent of an employee’s annual rate of basic pay times the number of years in a service agreement, not to exceed 4 years or 100 percent of annual basic pay. With a waiver, agencies can approve a recruitment or relocation incentive of up to 50 percent of an employee’s annual rate of basic pay times the number of years in a service agreement, but still not to exceed 100 percent of annual basic pay. Therefore, the total incentive paid under a waiver continues to be limited to 100 percent of the employee’s annual basic pay, but the incentive may be paid over 2 years rather than 4 years.

Section 101(a) of the Federal Workforce Flexibility Act of 2004 (Public Law 108-411, October 30, 2004) established significantly enhanced recruitment, relocation, and retention incentive authorities that provided Federal agencies with the flexibility to use such incentives in more strategic ways to help the Federal Government improve its competitiveness in recruiting and maintaining a high quality workforce. The enhancements provided by the Act included the authority to waive the normal cap on recruitment and relocation incentives because of a critical agency need and provided authority to pay higher amounts over shorter periods of time (not to exceed a total of 100 percent of the employee’s starting salary). The implementing regulations³² required OPM approval to waive the recruitment and relocation incentive limits.

³² 70 FR 25732, May 13, 2005

Although this waiver authority was effective upon publication of the implementing regulations on May 13, 2005, OPM did not receive any agency requests for recruitment or relocation waivers until 2008. Since that time, OPM approved 15 recruitment incentive waivers for 6 agencies and 11 relocation incentive waivers for 4 agencies. OPM approved waivers for healthcare, cybersecurity, and other mission-critical occupations. OPM-approved waivers provided agencies the discretionary authority to use a higher recruitment or relocation incentive payment limit for the covered position(s) and employee(s). An agency with an OPM-approved incentive waiver was responsible for documenting in writing the justification for paying each incentive authorized for an employee under the waiver and obtaining approval from the appropriate authorized agency official.

OPM does not know how agencies will use the additional flexibility provided by this change. It is possible that agencies will approve more recruitment and relocation incentive waivers now that they are not required to go through the process of submitting a waiver request to OPM. However, the criteria for approval has not changed, so agencies will still need to determine that the situation meets the critical need and other requirements for approving a waiver. In other words, approval of a waiver is not automatic and agencies will need to use discretion in granting waiver requests. In addition, agencies will need to make determinations about whether they have funds available in their budgets to provide waivers. The use of discretionary pay flexibilities such as recruitment and relocation incentives may be limited by agency budgets.

As with the waiver authority, OPM does not know how agencies will use the additional flexibility of utilizing recruitment incentive service agreements of less than 6 months. Agencies do not report data to OPM on the length of the service agreements they authorize. Since the amount of the maximum recruitment incentive is based on the length of the service period, an agency will be limited in how much of an incentive they could authorize. For example, under the normal payment limitations, the maximum recruitment incentive that could be paid for a 3-month

service period is 6.25 percent (.25 (25 percent) x .25 (3 months or 1/4 of 1 year) = 6.25 percent) of the employee's annual rate of basic pay at the beginning of the service period. Under a waiver, the maximum recruitment incentive that could be paid for a 3-month service period is 12.5 percent (.50 (50 percent) x .25 (3 months or 1/4 of 1 year) = 12.5 percent) of the employee's annual rate of basic pay at the beginning of the service period.

C. Regulatory Alternatives

An alternative to this final rule would have been to continue to require agencies to request approval from OPM when seeking a waiver of the normal recruitment and relocation payment limitations. OPM would have continued to review agency requests and grant waivers if the regulatory criteria were met. However, this slows down the approval process for agencies that have a critical need to recruit or relocate employees and want to act quickly.

Another alternative would have been to expand the authority to waive the normal recruitment and relocation payment limitations, but require higher approval levels within the agency. However, OPM believes agencies are in the best position to decide at what level to delegate this authority within their agency.

Also, OPM could have expanded the agency waiver authority, but required additional approval criteria. Agencies may include additional approval criteria in their agency plan. OPM does not believe it is necessary to require agencies to use additional approval criteria.

In addition, OPM could have expanded the agency waiver authority but also instituted special reporting requirements for the use of the new waiver authority. Agencies are required to report to OPM's central data system when they authorize a waiver of the normal recruitment or relocation incentive payment limitations using legal authority code VPO. OPM does not believe additional reporting requirements are necessary because OPM already collects many different data elements each time an agency authorizes a recruitment incentive or relocation incentive.

Regarding the amendment of the service agreement requirement for recruitment incentives, possible alternatives included maintaining the current 6-month minimum service

agreement or reducing it to a lesser amount (e.g., 3 months). However, OPM believes agencies are in the best position to decide the appropriate length for a recruitment incentive service agreement based on the needs for specific positions.

Finally, one commenter expressed concern that “the proposed rule does not consider the possible alternatives or trade-offs to the higher payment limits, such as improving the working conditions, providing training and development opportunities, or enhancing the recognition and feedback mechanisms for employees.” Comment 08. The commenter continued, “These factors could also influence the attraction and retention of qualified employees, and may be more cost-effective and sustainable than the higher payment limits.”

We agree that there are numerous alternatives to providing recruitment or relocation incentives. As noted in the OPM Publication, “Human Resources Authorities and Flexibilities in the Federal Government,”³³ pay often is not the most important reason cited by employees for being satisfied with their jobs or wanting to continue to work for a particular organization. When applying human resources flexibilities, agencies should also assess (including how successfully they were used and how important they turned out to be) the use of non-monetary strategies and factors, such as the following:

- Merit-based career and skill growth opportunities, including through formal training, on-the-job learning and development, and mentoring;
 - Performance management systems that support agency missions, goals, and priorities and hold employees accountable for their performance by providing employees clear, timely, constructive feedback and appropriate rewards;
 - Alternative work schedules (flexible work hours/days) and flexible leave options;
- and

³³ Office of Personnel Management. “Human Resources Authorities and Flexibilities in the Federal Government.” <https://www.opm.gov/policy-data-oversight/pay-leave/reference-materials/handbooks/humanresourcesflexibilitiesauthorities.pdf>.

- Additional non-monetary benefits.

While agencies should consider non-monetary strategies to recruit employees, we recognize there are times when those strategies are insufficient. At those times, pay flexibilities such as recruitment and relocation incentives may be especially helpful. This rule does not impact the availability of any of those options; it only expands the availability of an existing recruitment tool.

D. Costs

This final rule will affect the operations of more than 80 Federal agencies—ranging from cabinet-level departments to small independent agencies—that have employees covered by the recruitment and relocation incentive regulations. If agencies choose to make use of the new flexibilities, OPM estimates that this rule will require individuals employed by these agencies to spend time updating agency policies and procedures as a result of the final regulations. For this cost analysis, the assumed average salary rate of Federal employees performing this work is the 2025 rate for GS-14, step 5, from the Washington, DC, locality pay table (\$161,486 annual locality rate and \$77.38 hourly locality rate). OPM assumes the total dollar value of labor, which includes wages, benefits, and overhead, is equal to 200 percent of the wage rate, resulting in an assumed labor cost of \$154.76 per hour.

To comply with the regulatory changes in the final rule, affected agencies will need to review the rule and update their policies and procedures. OPM estimates that, in the first year following publication of this final rule, this will require an average of 160 hours of work by employees with an average hourly cost of \$154.76 per hour. This results in estimated costs in the first year of implementation of about \$24,762 per agency, and about \$2 million Governmentwide. There are costs associated with administering recruitment and relocation incentives but not necessarily an increase in administrative costs for agencies that are already using these pay flexibilities.

OPM does not know how agencies will use the additional flexibility provided by this change. Therefore, we do not know what impact this final rule will have on the total amount of recruitment and relocation incentives paid. As noted previously, it is important to understand that waivers to the normal payment limitations do not alter the maximum total amount of a recruitment or relocation incentive that may be paid to an individual employee. Agencies have the authority to approve a recruitment or relocation incentive for payments of up to 25 percent of an employee's annual rate of basic pay times the number of years in a service agreement, not to exceed 4 years or 100 percent of annual basic pay. With a waiver, agencies can approve a recruitment or relocation incentive of up to 50 percent of an employee's annual rate of basic pay times the number of years in a service agreement, but still not to exceed 100 percent of annual basic pay. Therefore, the total incentive paid under a waiver continues to be limited to 100 percent of the employee's annual basic pay, but the incentive may be paid over 2 years rather than 4 years.

E. Benefits

Permitting agencies to review and approve waivers at the agency level will reduce administrative burden on agencies and increase the efficiency of using recruitment and relocation incentives. This will allow agencies to move more quickly in approving incentives when hiring new employees and relocating those who are moving into positions that are likely to be difficult to fill. Such efficiency could be especially helpful in emergencies or other urgent situations in which recruiting new employees or relocating current employees rapidly is necessary. Also, with increases in the number of retirement-eligible employees, recruiting early career and experienced talent to the Federal workforce is a high priority. Providing agencies with more flexibility in implementing recruitment incentives by permitting greater latitude in determining service agreement lengths and payment limits can be a useful tool in achieving this goal.

Regulatory Flexibility Act

The Director of OPM certifies that these regulations will not have a significant economic impact on a substantial number of small entities because they will apply only to Federal agencies and employees.

Regulatory Review

The Office of Information and Regulatory Affairs in the Office of Management and Budget has designated this as a significant regulatory action under E.O. 12866 section 3(f). Accordingly, OPM has examined the impact of this rule as required by Executive Orders 12866 and 13563, which direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public, health, and safety effects, distributive impacts, and equity). A regulatory impact analysis must be prepared for rules that have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. This rule is not a significant regulatory action under E.O. 12866. Therefore, this rule is not an E.O. 14192 regulatory action because it is not significant under E.O. 12866.

E.O. 13132, Federalism

This regulation will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, the Director of OPM certifies that this proposed rule does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

E.O. 12988, Civil Justice Reform

This regulation meets the applicable standards set forth in section 3(a) and (b)(2) of Executive Order 12988.

Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires that agencies assess anticipated costs and benefits before issuing any rule that would impose spending costs on State, local, or tribal governments in the aggregate, or on the private sector, in any 1 year of \$100 million in 1995 dollars, updated annually for inflation. That threshold is currently approximately \$206 million. This rulemaking will not result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, in excess of the threshold. Thus, no written assessment of unfunded mandates is required.

Congressional Review Act

OMB's Office of Information and Regulatory Affairs has determined this is not a major rule as defined by the Congressional Review Act (5 U.S.C. 804(2)).

Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35)

This regulatory action will not impose any reporting or recordkeeping requirements under the Paperwork Reduction Act.

List of Subjects in 5 CFR Part 575

Government employees, Wages.

The Director of OPM, Scott Kupor, reviewed and approved this document and has authorized the undersigned to electronically sign and submit this document to the Office of the Federal Register for publication.

Dated: December 10, 2025.

Office of Personnel Management.

Jerson Matias,

Federal Register Liaison.

For the reasons stated in the preamble, OPM amends 5 CFR part 575 as follows:

PART 575—RECRUITMENT, RELOCATION, AND RETENTION INCENTIVES; SUPERVISORY DIFFERENTIALS; AND EXTENDED ASSIGNMENT INCENTIVES

1. The authority citation for part 575 is revised to read as follows:

Authority: 5 U.S.C. 1104(a)(2), 5307. Subparts A and B also issued under 5 U.S.C. 5753. Subpart C also issued under 5 U.S.C. 5754. Subpart D also issued under 5 U.S.C. 5755. Subpart E also issued under 5 U.S.C. 5757; sec. 207, Pub. L. 107-273, 116 Stat. 1780 (5 U.S.C. 5307 note).

Subpart A—Recruitment Incentives

2. In § 575.106, revise paragraph (a)(4) to read as follows:

§ 575.106 Authorizing a recruitment incentive.

(a) * * *

(4) Waive the limitation on the maximum amount of a recruitment incentive under § 575.109(c); and

* * * * *

3. In § 575.107, revise paragraphs (a)(1) and (b) to read as follows:

§ 575.107 Agency recruitment incentive plan and approval levels.

(a) * * *

(1) The designation of officials with authority to—

(i) Review and approve payment of recruitment incentives (subject to paragraph (b) of this section), including the circumstances under which an official has the authority to approve payment without higher-level approval under paragraph (b)(2) of this section;

(ii) Waive the recruitment incentive payment limitation under § 575.109(c) (subject to the approval requirements in paragraph (b) of this section); and

(iii) Waive the repayment of a recruitment incentive under § 575.111(h);

* * * * *

(b)(1) Except as provided in paragraph (b)(2) of this section, an authorized agency official who is at least one level higher than the employee’s supervisor must review and approve each determination to pay a recruitment incentive to a newly appointed employee, unless there is no official at a higher level in the agency. If a determination includes a waiver of the payment

limitation in § 575.109(c), the official who is designated in the agency’s plan under paragraph (a) of this section to approve waivers must approve the determination. The authorized agency official must review and approve the recruitment incentive determination before the agency may pay the incentive to the employee.

(2) When necessary to make a timely offer of employment, an authorized agency official may establish criteria in advance for offering recruitment incentives to newly-appointed employees and may authorize an official who is not lower than a candidate’s supervisor to use these criteria to offer a recruitment incentive to a candidate without further review or approval in any amount within a pre-established range up to—

(i) The normal payment limitation in § 575.109(b); or

(ii) A higher cap if the agency has approved a waiver to the normal payment limitation under § 575.109(c).

* * * * *

4. In § 575.109, revise paragraph (c) to read as follows:

§ 575.109 Payment of recruitment incentives.

* * * * *

(c)(1) An authorized agency official may waive the limitation in paragraph (b)(1) of this section for an employee or group of employees based on a critical agency need. The authorized agency official must determine that the competencies required for the position(s) are critical to the successful accomplishment of an important agency mission, project, or initiative (e.g., programs or projects related to a national emergency or implementing a new law or critical management initiative). Under such a waiver, the total amount of recruitment incentive payments paid to an employee in a service period may not exceed 50 percent of the employee’s annual rate of basic pay at the beginning of the service period multiplied by the number of years (including fractions of a year) in the service period. However, in no event may a waiver provide total

recruitment incentive payments exceeding 100 percent of the employee’s annual rate of basic pay at the beginning of the service period.

(2) Waiver determinations must be made in writing and include—

(i) A description of the critical agency need the recruitment incentive would address;

(ii) The documentation required by § 575.108; and

(iii) Any other information pertinent to the case at hand.

* * * * *

5. In § 575.110, revise paragraph (a) to read as follows:

§ 575.110 Service agreement requirements.

(a) Before paying a recruitment incentive, an agency must require the employee to sign a written service agreement to complete a specified period of employment with the agency (or successor agency in the event of a transfer of function). An authorized agency official must establish the criteria for determining the length of a service period. The service period may not exceed 4 years.

* * * * *

Subpart B—Relocation Incentives

6. In § 575.206, revise paragraph (a)(4) to read as follows:

§ 575.206 Authorizing a relocation incentive.

(a) * * *

(4) Waive the limitation on the maximum amount of a relocation incentive under § 575.209(c); and

* * * * *

7. In § 575.207, revise paragraphs (a)(1) and (b)(1) to read as follows:

§ 575.207 Agency relocation incentive plan and approval levels.

(a) * * *

(1) The designation of officials with authority to—

(i) Review and approve payment of relocation incentives (subject to paragraph (b) of this section);

(ii) Waive the relocation incentive payment limitation under § 575.209(c) (subject to the approval requirements in paragraph (b) of this section); and

(iii) Waive the repayment of a relocation incentive under § 575.211(h);

* * * * *

(b)(1) Except as provided in paragraph (b)(2) of this section, an authorized agency official who is at least one level higher than the employee's supervisor must review and approve each determination to pay a relocation incentive, unless there is no official at a higher level in the agency. If a determination includes a waiver of the payment limitation in § 575.209(c), the official who is designated in the agency's plan under paragraph (a) of this section to approve waivers must approve the determination. The authorized agency official must review and approve the relocation incentive determination before the agency pays the incentive to the employee.

* * * * *

8. In § 575.209, revise paragraph (c) to read as follows:

§ 575.209 Payment of relocation incentives.

* * * * *

(c)(1) An authorized agency official may waive the limitation in paragraph (b)(1) of this section for an employee (or group of employees, if the case-by-case determination is waived under the conditions in § 575.208(b)) based on a critical agency need. The authorized agency official must determine that the competencies required for the position are critical to the successful accomplishment of an important agency mission, project, or initiative (e.g., programs or projects related to a national emergency or implementing a new law or critical management initiative). Under such a waiver, the total amount of relocation incentive payments paid to an employee in a service period may not exceed 50 percent of the annual rate of basic pay of the

employee at the beginning of the service period multiplied by the number of years (including fractions of a year) in the service period. However, in no event may a waiver provide total relocation incentive payments exceeding 100 percent of the employee's annual rate of basic pay at the beginning of the service period.

(2) Waiver determinations must be in writing and include—

(i) A description of the critical agency need the relocation incentive would address;

(ii) The documentation required by § 575.208; and

(iii) Any other information pertinent to the case at hand.

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