investigator’s entitlement to availability pay shall be suspended for an appropriate period, consistent with agency policies. If the investigator’s certification was valid when made, the suspension of availability pay shall be effected prospectively.

(e) An involuntary suspension of availability pay resulting from a denial or cancellation of certification under paragraph (d) of this section is a reduction in pay for the purpose of applying the adverse action procedures of 5 U.S.C. 5512 and part 752 of this chapter, except for special agents in the Foreign Service. For special agents in the Foreign Service, an involuntary suspension of availability pay resulting from a denial or cancellation of certification under paragraph (d) of this section will be administered under procedures established by regulations of the Department of State.

(f) The head of an agency (or authorized designee) may prescribe any additional regulations necessary to administer the certification requirement, including procedures for retroactive correction in cases in which a certification is issued belatedly or lapses due to administrative error.


§ 550.185 Payment of availability pay.

(a) Availability pay is paid only for periods of time during which a criminal investigator receives basic pay. Availability pay is an amount equal to the lesser of—(1) 25 percent of a criminal investigator’s rate of basic pay, as defined in §550.103, including amounts designated as “salary” for special agents in the Diplomatic Security Service; or

(2) The maximum amount that may be paid to avoid exceeding the maximum earnings limitation on premium pay for law enforcement officers in 5 U.S.C. 5547(c).

(b) Except as provided in paragraph (c) of this section, a criminal investigator who is eligible for availability pay shall continue to receive such pay during any period such investigator is attending agency-sanctioned training, on agency-ordered travel status, on agency-approved leave with pay, or on excused absence with pay for relocation purposes.

(c) Agencies may, at their discretion, provide availability pay to criminal investigators during training that is considered initial, basic training usually provided in the first year of service.

(d) Agencies may, at their discretion, provide for the continuation of availability pay when a criminal investigator is on excused absence with pay, except where payment is mandatory under paragraph (b) of this section.

(e) The amount of availability pay payable to a criminal investigator for a pay period is not affected by the occurrence of a paid holiday during that period.


§ 550.186 Relationship to other payments.

(a) Standby duty pay under §550.141 and administratively uncontrollable overtime pay under §550.151 may not be paid to a criminal investigator receiving availability pay. Receipt of availability pay does not affect an investigator’s entitlement to other types of premium pay (including overtime pay under §550.111) based on hours other than unscheduled duty hours. However, a criminal investigator receiving availability pay may not be paid any other premium pay based on unscheduled duty hours.

(b) Availability pay is treated as part of basic pay or basic salary only for the following purposes:

(1) 5 U.S.C. 5524a, pertaining to advances in pay;

(2) 5 U.S.C. 5595(c), pertaining to severance pay;

(3) 5 U.S.C. 8114(e), pertaining to workers’ compensation;

(4) 5 U.S.C. 8331(3) and 5 U.S.C. 8401(4), pertaining to retirement benefits;

(5) Subchapter III of chapter 84 of title 5, United States Code, pertaining to the Thrift Savings Plan;

(6) 5 U.S.C. 8704(c), pertaining to life insurance;

(7) Sections 609(b)(1), 805, 806, and 856 of the Foreign Service Act of 1980, as amended (Pub. L. 96–465), pertaining to Foreign Service retirement benefits; and