

(f) The service agreement may include any other terms or conditions that, if violated, will result in termination of the service agreement. For example, the service agreement may specify the employee's work schedule, type of position, and the duties he or she is expected to perform. In addition, the service agreement may address the extent to which periods of time on detail, in a nonpay status, or in a paid leave status are creditable towards the completion of the service period.

[70 FR 25743, May 13, 2005, as amended at 72 FR 67839, Dec. 3, 2007; 78 FR 49364, Aug. 14, 2013]

**§ 575.211 Termination of a service agreement.**

(a) An authorized agency official may unilaterally terminate a relocation incentive service agreement based solely on the management needs of the agency. For example, an agency may terminate a service agreement when the employee's position is affected by a reduction in force, when there are insufficient funds to continue the planned incentive payments, or when the agency assigns the employee to a different position (if the different position is not within the terms of the service agreement).

(b) An authorized agency official must terminate a relocation incentive service agreement if an employee is demoted or separated for cause (*i.e.*, for unacceptable performance or conduct), if the employee receives a rating of record (or an official performance appraisal or evaluation under a system not covered by 5 U.S.C. chapter 43 or 5 CFR part 430) of less than "Fully Successful" or equivalent, if the employee fails to maintain residency in the new geographic area for the duration of the service agreement, or if the employee otherwise fails to fulfill the terms of the service agreement.

(c) The termination of a service agreement is not grievable or appealable.

(d) The agency must notify an employee in writing when it terminates a relocation incentive service agreement.

(e) If an authorized agency official terminates a service agreement under paragraph (a) of this section, the employee is entitled to all relocation in-

centive payments attributable to completed service and to retain any portion of a relocation incentive payment he or she received that is attributable to uncompleted service.

(f) If an authorized agency official terminates a service agreement under paragraph (b) of this section, the employee is entitled to retain relocation incentive payments previously paid by the agency that are attributable to the completed portion of the service period. If the employee received relocation incentive payments that are less than the amount that would be attributable to the completed portion of the service period, the agency is not obligated to pay the employee the amount attributable to completed service, unless the agency agreed to such payment under the terms of the relocation incentive service agreement. If the employee received relocation incentive payments in excess of the amount that would be attributable to the completed portion of the service period, he or she must repay the excess amount, except when an authorized agency official waives the requirement to repay the excess amount under paragraph (h) of this section.

(g) If an employee fails to reimburse the paying agency for the full amount owed under paragraph (f) of this section, the amount outstanding must be recovered from the employee under the agency's regulations for collection by offset from an indebted Government employee under 5 U.S.C. 5514 and 5 CFR part 550, subpart K, or through the appropriate provisions governing Federal debt collection if the individual is no longer a Federal employee.

(h) If an employee received relocation incentive payments in excess of the amount that would be attributable to the completed portion of the service period under paragraph (f) of this section, an authorized agency official may waive the requirement to repay the excess amount when, in the judgment of the official, collection of the excess amount would be against equity and good conscience and not in the best interest of the United States.

(i) The full amount of the authorized relocation incentive must be prorated across the length of the service period

## § 575.212

to determine the amount of the relocation incentive attributable to completed service and uncompleted service under this section.

[70 FR 25743, May 13, 2005, as amended at 72 FR 67839, Dec. 3, 2007; 78 FR 49364, Aug. 14, 2013]

### § 575.212 Internal monitoring requirements and revocation or suspension of authority.

(a) Each agency must monitor the use of relocation incentives to ensure that the agency's relocation incentive plan and the payment of relocation incentives are consistent with the requirements and criteria established under 5 U.S.C. 5753 and this subpart.

(b) When OPM finds that an agency is not paying relocation incentives consistent with the agency's relocation incentive plan and the criteria established under this subpart or otherwise determines that the agency is not using this authority 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 a relocation incentive to such employees; or

(2) Revoke or suspend the authority granted to the agency under this subpart 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 a relocation incentive to such employees.

### § 575.213 Records and reports.

Each agency must keep a record of each determination to pay a relocation incentive and make such records available for review upon OPM's request.

[70 FR 25743, May 13, 2005, as amended at 78 FR 49364, Aug. 14, 2013]

## Subpart C—Retention Incentives

SOURCE: 70 FR 25747, May 13, 2005, unless otherwise noted.

## 5 CFR Ch. I (1–1–22 Edition)

### § 575.301 Purpose.

This subpart contains regulations implementing 5 U.S.C. 5754, which authorizes payment of retention incentives. An agency may pay a retention incentive to a current employee under the conditions specified in this subpart when an agency determines 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 the employee would be likely to leave in the absence of an incentive.

[70 FR 25747, May 13, 2005, as amended at 72 FR 64527, Nov. 16, 2007]

### § 575.302 Definitions.

In this subpart:

*Agency* means an executive agency or a legislative branch agency included in 5 U.S.C. 5102(a)(1).

*Authorized agency official* means the head of an agency or an official who is authorized to act for the head of the agency in the matter concerned.

*Competencies* means the knowledge, skills, abilities, behaviors, and other characteristics an employee needs to perform the duties of a position.

*Employee* has the meaning given that term in 5 U.S.C. 2105, except that the term also includes an employee described in 5 U.S.C. 2105(c).

*Executive agency* has the meaning given that term in 5 U.S.C. 105.

*OPM* means the Office of Personnel Management.

*Rate of basic pay* means the rate of pay fixed by law or administrative action for the position to which an employee is 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, 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).

*Service agreement* means a written agreement between an agency and an employee under which the employee