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5 U.S. Code § 5754 - Retention bonuses

U.S. Code Notes Authorities (CFR)

(a)

(1) This section may be applied to—

(A) employees covered by the General Schedule pay system established under subchapter III of chapter 53; and

(B) employees in a category approved by the Office of Personnel Management at the request of the head of an Executive agency.

(2) A bonus may not be paid under this section to an individual who is appointed to or who holds—

(A) a position to which an individual is appointed by the President, by and with the advice and consent of the Senate, excluding members of the Foreign Service other than chiefs of mission and ambassadors at large;

(B) a position in the Senior Executive Service as a noncareer appointee (as such term is defined under [section 3132\(a\)](#)); or

(C) a position which has been excepted from the competitive service by reason of its confidential, policy-determining, policy-making, or policy-advocating character.

(3) In this section, the term “[employee](#)” has the meaning given that term in section 2105, except that such term also includes an [employee](#) described in subsection (c) of that section.

(b) The Office of Personnel Management may authorize the head of an agency to pay a retention bonus to an [employee](#) if—

(1) 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

(2) the agency determines that, in the absence of a retention bonus, the [employee](#) would be likely to leave—

(A) the Federal service; or

(B) for a different position in the Federal service under conditions described in regulations of the Office.

(c) The Office may authorize the head of an agency to pay retention bonuses to a group of [employees](#) in 1 or more categories of positions in 1 or more geographic areas, subject to the requirements of subsection (b)(1) and regulations prescribed by the Office, if there is a high risk that a significant portion of [employees](#) in the group would be likely to leave in the absence of retention bonuses.

(d)

(1) Payment of a retention bonus is contingent upon the [employee](#) entering into a written service agreement with the agency to complete a period of employment with the agency.

(2)

(A) The agreement shall include—

- (i)** the length of the required service period;
- (ii)** the amount of the bonus;
- (iii)** the method of payment; and
- (iv)** other terms and conditions under which the bonus is payable, subject to the requirements of this section and regulations of the Office.

(B) The terms and conditions for paying a bonus, as specified in the service agreement, shall include—

- (i)** the conditions under which the agreement may be terminated before the agreed-upon service period has been completed; and
- (ii)** the effect of the termination.

(3)

(A) Notwithstanding paragraph (1), a written service agreement is not required if the agency pays a retention bonus in biweekly installments and sets the installment payment at the full bonus percentage rate established for the employee with no portion of the bonus deferred.

(B) If an agency pays a retention bonus in accordance with subparagraph (A) and makes a determination to terminate the payments, the agency shall provide written notice to the employee of that determination. Except as provided in regulations of the Office, the employee shall continue to be paid the retention bonus through the end of the pay period in which such written notice is provided.

(4) A retention bonus for an employee may not be based on any period of such service which is the basis for a recruitment or relocation bonus under section 5753.

(e)

(1) Except as provided in subsection (f), a retention bonus, which shall be stated as a percentage of the employee's basic pay for the service period associated with the bonus, may not exceed—

(A) 25 percent of the employee's basic pay if paid under subsection (b); or

(B) 10 percent of an employee's basic pay if paid under subsection (c).

(2)

(A) A retention bonus may be paid to an employee in installments after completion of specified periods of service or in a single lump sum at the end of the full period of service required by the agreement.

(B) An installment payment is derived by multiplying the amount of basic pay earned in the installment period by a percentage not to exceed the bonus percentage rate established for the employee.

(C) If the installment payment percentage established for the employee is less than the bonus percentage rate established for the employee, the accrued but unpaid portion of the bonus is payable as part of the final installment payment to the employee after completion of the full service period under the terms of the service agreement.

(D) For purposes of this paragraph, the bonus percentage rate established for an employee means the bonus percentage rate established for such employee in accordance with paragraph (1) or subsection (f), as the case may be.

(3) A retention bonus is not part of the basic pay of an employee for any purpose.

(f) Upon the request of the head of an agency, the Office may waive the limit established under subsection (e)(1) and permit the agency head to pay an otherwise eligible employee or category of employees retention bonuses of up to 50 percent of basic pay, based on a critical agency need.

(g) The Office shall require that, before paying any bonuses under this section, an agency shall establish a plan for the payment of any such bonuses, subject to regulations prescribed by the Office.

(h) The Office may prescribe regulations to carry out this section.

(Added Pub. L. 108-411, title I, § 101(a)(1), Oct. 30, 2004, 118 Stat. 2307; amended Pub. L. 114-323, title IV, § 412(2), Dec. 16, 2016, 130 Stat. 1932.)