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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 575

RIN 3206-AK01

Extended Assignment Incentives

AGENCY: Office of Personnel Management.

ACTION: Interim rule with request for comments.

SUMMARY: The Office of Personnel Management is issuing interim regulations to implement a recent statutory amendment that authorizes the payment of extended assignment incentives to certain categories of Federal employees in positions located in a territory or possession of the United States, the Commonwealth of Puerto Rico, or the Commonwealth of the Northern Mariana Islands. The interim regulations establish the criteria and procedures for the payment of extended assignment incentives.

DATES: *Effective Date:* The interim regulations will become effective on September 12, 2003.

Applicability Date: The interim regulations apply on the 1st day of the first applicable pay period beginning on or after September 12, 2003.

Comment Date: Comments must be received on or before November 12, 2003.

ADDRESSES: Send or deliver comments to Donald J. Winstead, Deputy Associate Director for Pay and Performance Policy, Office of Personnel Management, Room 7H31, 1900 E Street NW., Washington, DC 20415, FAX: (202) 606-4264, or e-mail at pay-performance-policy@opm.gov.

FOR FURTHER INFORMATION CONTACT: Lee Kara by telephone at (202) 606-2858; by fax at (202) 606-4264; or by e-mail at pay-performance-policy@opm.gov.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management (OPM) is issuing interim regulations on the payment of extended assignment incentives authorized by section 207 of Public Law 107-273 (November 2, 2002). Section 207 adds a new section 5757 to chapter 57 of title 5, United States Code, to permit the head of an Executive agency to pay an extended assignment incentive to certain 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.

Public Law 107-273 provides that section 207 will become effective on the 1st day of the first applicable pay period beginning on or after 6 months after the date of enactment of the Act (November 2, 2002). The 6-month period ended on May 2, 2003. Since biweekly pay periods for Federal employees begin on a Sunday, this provision became effective on May 4, 2003, for most employees. However, for the few agencies using an alternative biweekly payroll cycle, the law became effective on May 11, 2003.

Extended Assignment Incentives

Congress provided authority to pay extended assignment incentives to assist agencies in retaining experienced, well-trained employees in a U.S. territory, possession, or commonwealth for a longer period than the employee's initial tour of duty. The interim regulations permit the head of an Executive agency to provide an extended assignment incentive to an employee if (1) the employee has completed at least 2 years of continuous service in one or more civil service positions located in a given territory or possession of the United States, the Commonwealth of Puerto Rico, or the Commonwealth of the Northern Mariana Islands; (2) the agency determines that replacing the employee with another employee possessing the required qualifications and experience would be difficult; and (3) the agency determines that it is in the best interest of the Government to encourage the employee to complete a specified additional period of employment with the agency in one of the covered locations. An employee must have completed the required 2 years of continuous service immediately before commencement of a

service agreement to receive an extended assignment incentive. In determining whether it is in the best interest of the Government to retain the employee in a particular location, an agency may consider how the employee's departure would affect the agency's ability to carry out an activity or perform a function that the agency deems essential to its mission or to operate effectively. By law, the total amount of service an employee may perform in a particular territory, possession, or commonwealth under one or more extended assignment incentive service agreements with an agency may not exceed 5 years.

The interim regulations require the head of the agency to establish an agency plan for authorizing extended assignment incentives. The plan must designate the agency officials with authority to review and approve incentive payments, agency criteria for authorizing extended assignment incentive payments and determining the amount of a payment, requirements governing service agreements, procedures for paying extended assignment incentives, and documentation and recordkeeping requirements sufficient to allow reconstruction of the action.

Subject to the limitations in § 575.506, any employee who meets the definition of "employee" under 5 U.S.C. 2105 is eligible to receive an extended assignment incentive, including employees in General Schedule positions, senior-level and scientific or professional positions, Senior Executive Service positions, and prevailing rate positions covered by the Federal Wage System. Any agency-wide limitations or prohibitions regarding the categories of employees that may receive an extended assignment incentive should be documented in the agency plan.

An employee may receive an extended assignment incentive not to exceed the greater of (1) 25 percent of the annual rate of basic pay of the employee at the beginning of the service period times the number of years in the service period; or (2) \$15,000 per year in the service period. The service period must begin on the first day of a pay period and end on the last day of a pay period. For example, assume an agency wishes to pay the maximum extended assignment incentive to an employee who signed an extended assignment