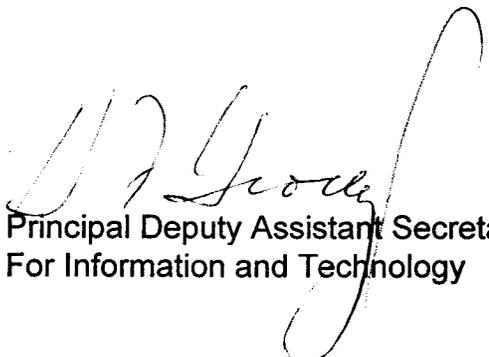


RETENTION ALLOWANCES

1. **REASON FOR ISSUE:** To provide guidance and mandatory procedures on Department of Veterans Affairs (VA) policy on retention allowances.
2. **SUMMARY OF CONTENTS/MAJOR CHANGES:** This Handbook provides guidance and procedures for authorizing retention allowances of up to 25 percent of basic pay for individual employees and up to 10 percent of basic pay for groups or categories of employees. It also revises the criteria for documenting that an employee is likely to leave Federal service.
3. **RESPONSIBLE OFFICE:** The Customer Advisory and Consulting Group (051), Office of the Deputy Assistant Secretary for Human Resources.
4. **RELATED DIRECTIVES:** VA Directive 5575.3/1, Retention Allowances and VA Directive 5575.3, Retention Allowances
5. **RESCISSION:** MP-5, Part I, Chapter 575, Section C, "Retention Allowances," change 2, dated April 13, 1995.

CERTIFIED BY:



Principal Deputy Assistant Secretary for
For Information and Technology

BY DIRECTION OF THE SECRETARY
OF VETERANS AFFAIRS:



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Assistant Secretary for Human
Resources and Administration

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RETENTION ALLOWANCES

1. PURPOSE. This handbook contains guidance and procedures for Department of Veterans Affairs (VA) policy on retention allowances.

2. CRITERIA NEEDED TO AUTHORIZE RETENTION ALLOWANCES. A retention allowance may be authorized if, without one, VA would likely lose for any reason an employee or group of employees whose retention is essential because of unusually high or unique qualifications or a special VA need. In determining whether a retention allowance should be authorized and the allowance percentage, the following factors must be considered:

a. **Essential need for services.** A determination must be made that the loss of the employee or a significant number of employees, for group authorizations, would have a significantly detrimental impact on one or more activities or functions that are essential to VA's mission. This determination will be based, in part, on an evaluation of the particular skills, knowledges, and abilities which employees possess that impact on the activities or functions of VA.

b. **Availability of equivalent skills.** Consideration should be given to the availability of the unique or distinguishing experience or qualifications possessed by an employee or group of employees and the likelihood of attracting replacements with sufficient skills to accomplish the work. The availability of current staff with comparable qualifications, abilities, expertise or partial qualifications that will enable the function to continue should be determined. Consideration should also be given to the possibility of job engineering to fulfill the need and/or the establishment of a training program or an understudy position to meet VA's need.

c. **Evidence that the employee is likely to leave Federal employment.** Each supervisor shall make a separate certification that an employee, or for group authorizations, a significant number of employees in the group, is likely to leave Federal service (see Appendix D). This certification will only be made when the supervisor is reasonably convinced that the employee is likely to leave Federal service. Such a certification will be based on:

(1) Receipt by an employee, or for group authorizations, a significant number of employees, of one or more bona fide offers of employment, as evidenced by a formal written job offer or affidavit signed by the employee or employees providing the position and salary being offered, the name and location of the organization, and the prospective date of employment; or

(2) Evidence of high demand in the private sector for the knowledge and skills possessed by the employee or group of employees and significant pay disparities between Federal and non-Federal salaries; or

(3) A discussion with the employee of the employee's career plans.

d. **Staffing history.** Careful consideration must be given to the staffing history for the occupation, including recent recruitment experience, the success in filling the same or similar positions at the facility, in a geographic area, or nationwide; retention experience for similar jobs requiring similar qualifications; historical VA difficulties in recruiting for an occupation or a type of position, either nationwide or on a geographic basis. Some of the factors to consider in evaluating recent staffing experience are the desirability of the location, cost-of-living disparities, significant differences between Federal and community pay for the position, any special considerations in securing a replacement for the incumbent, and competing recruiting incentives and inducements for the occupation or position.

3. RESPONSIBILITIES

a. Administration Heads, Assistant Secretaries, Other Key Officials, Deputy Assistant Secretaries, and facility Directors are responsible for the fair, equitable, and fiscally responsible administration of VA policy and for ensuring that retention allowances, where recommended or approved, are determined in accordance with VA Directive 5575.3/1.

b. The Deputy Assistant Secretary for Human Resources Management is responsible for advising management officials on the governing regulations and VA policy, conducting technical reviews of allowance requests submitted for centralized approval, auditing retention allowance approvals of noncentralized positions, and for compiling annual reports required by OPM.

c. Officials responsible for human resources management (HRM) are responsible for providing technical advice and assistance and for ensuring the completeness of requests prepared for approval. They will maintain documentation adequate to reconstruct each case, coordinate annual reviews of allowances, and prepare reports as required. HRM officials will ensure that records of those being considered for a retention allowance are screened to determine whether a recruitment or relocation bonus service obligation remains unfulfilled. They will also ensure that approving officials and employees being recommended for retention allowances are informed about the impact of aggregate limitations on pay.

d. Supervisors are responsible for acquiring sufficient evidence to certify that an employee(s) is likely to leave Federal service.

e. Employees are responsible for providing accurate information about offers of employment and career plans, which may be used in retention allowance determinations.

4. ALLOWANCE REQUESTS

a. The appropriate approving official, as indicated in paragraph 3 of VA Directive 5575.3/1, may authorize allowances of up to 25 percent of an employee's rate of basic pay for individual employees and up to 10 percent of an employee's rate of basic pay for groups or categories of employees. The allowance percentage shall reasonably correlate to the impact of the loss of the employee's expertise and the anticipated difficulty in recruiting a replacement with similar qualifications or expertise.

b. Retention allowance requests for individual employees must include the following:

(1) The employee's name, facility, duty station, organization, appointment authority, rate of basic pay, and classification title, series, and grade;

(2) The supervisory certification that the employee is likely to leave Federal service;

(3) The proposed effective date and duration of the retention allowance;

(4) Whether the appointment is permanent or time-limited (if time-limited, it must be for two years or more);

(5) Whether the appointment is full-time or part-time and, if part-time, the hours to be worked;

NOTE: *Part-time title 38 employees are not eligible for retention allowances.*

(6) Justification which addresses the criteria in paragraph 2 of this handbook, including the basis for the supervisory certification that the employee is likely to leave Federal service;

(7) The percentage of basic pay the allowance represents, the dollar amount, and a statement explaining why this amount is considered necessary;

(8) A statement about the impact of the retention allowance on the aggregate limit on pay (see par. 7d);

(9) Any other considerations or information relevant to the case; and

(10) Signature blocks of the recommending and approving officials and dates.

c. Retention allowance requests for groups must include the following:

(1) A description of the group or category and number of employees to be covered;

(2) The supervisory certification that a significant number of employees in the group are likely to leave Federal service;

(3) The information required in paragraph 4b, items (3) through (9) above, for each employee in the group or category;

(4) Signature blocks of the recommending and approving officials and dates.

d. Requests will be submitted in writing, through the local HRM office for technical review and concurrence, to the approving official in sufficient time for a decision before the proposed effective date. Retention allowance requests for field positions requiring centralized approval

will be submitted through channels to OHRM (051) for technical review and concurrence prior to action by the approving official.

5. EMPLOYEE STATEMENT OF UNDERSTANDING. An employee statement of understanding must be prepared by the HRM Office and included with each retention allowance request. A sample is included in Appendix A.

6. APPROVING ALLOWANCES

a. Approving officials must review and approve each retention allowance in writing. Allowances will be effective only after the appropriate official approves the request. Approvals may not be made on a retroactive basis.

b. The approving official will return the approved allowance request to the recommending official for transmittal to the employee and the servicing HRM office. HRM officials will retain the approval, recommendation, and supporting documentation, including the signed Employee Statement of Understanding.

7. PAYMENT PROCEDURES

a. A retention allowance is not part of basic pay for any purpose. It will not be credited for retirement, overtime, or other purposes. The per annum rate of basic pay, including a retained rate, will be used to calculate the allowance. For reemployed annuitants, the employee's reduced reemployment salary will be used. Each allowance will be paid in the same manner and at the same time as basic pay exclusive of overtime hours. The allowance for part-time employees will reflect the relationship of their part-time to full-time work. Time in a non-pay status will not be credited for allowance payment. To calculate the allowance, use the following steps:

(1) Multiply the annual basic rate of pay for the grade and step of the employee by the approved percentage and round down to the nearest whole dollar. This amount cannot exceed 25 percent for individual authorizations or 10 percent for group authorizations, unless approved by OPM.

(2) Divide the result by 2087 to calculate the hourly rate of retention allowance for title 5 employees and by 2080 hours to calculate the hourly rate for title 38 employees, except physicians and dentists; for physicians and dentists, divide the result by 364 days to calculate the daily rate.

(3) Pay the employee this hourly rate of retention allowance for each hour the employee receives basic pay, excluding overtime hours.

b. Since retention allowances are paid for each hour an employee receives basic pay, reductions in hours of work will automatically reduce the amount of the annual allowance.

c. OPM's definition of "rate of basic pay" excludes additional pay of any kind; therefore, retention allowances shall be calculated only on the rate of basic pay exclusive of additional pay of any kind, including pay for overtime hours. (See paragraph 5c in VA Directive 5575.3/1 for the definition of "rate of basic pay" for purposes of paying retention allowances.)

d. **Aggregate Limitations on Pay.** An employee may not receive any portion of a retention allowance that would, in combination with the estimated aggregate of all the employee's other payments, cause total compensation received during the calendar year to exceed the aggregate limit on pay. If an increase in a nondiscretionary payment(s) causes the estimated aggregate compensation to exceed the aggregate limitation, the amount of the retention allowance will be reduced to the extent necessary to remain within the limit specified. The aggregate limit on compensation is the rate of pay for EL-I. The statutory limit for total compensation for physicians and dentists is \$200,000; however, facility Directors are currently limited to approvals not in excess of \$170,000.

8. ANNUAL REVIEW

a. Each authorization must be reviewed at least annually to determine whether continued payment is appropriate and, if so, whether the amount should be adjusted. Consideration should be given to the local job market and the current likelihood of the employee's leaving. The PAID System will provide VA Form 97, Notice of Pending Personnel Action, five months prior to the anniversary date of each allowance authorization. Notices will be provided by the HRM official to recommending officials, who will evaluate the need to continue the allowance and whether the amount should be adjusted.

b. Not later than ten months after approval of an allowance and annually thereafter, recommending officials will submit to the appropriate approving officials requests to terminate, continue unchanged, or adjust the allowances. Approving officials will approve, disapprove, or alter the recommendation over their signatures. Changes will be effective at the beginning of the first pay period after the decision if received prior to the anniversary date of the allowance; if not received, the PAID System is programmed to terminate the bonus. Justification from the original request that is still applicable to the case should be included in the annual renewal request. Appendix B of this handbook contains a sample request for the annual review of retention allowances.

9. CHANGES IN RETENTION ALLOWANCES

a. A retention allowance may be increased only by the approving official based on a new finding of VA's need for the employee's services and evidence that an employee or a significant number of a group of employees are likely to leave. A new request will be submitted in accordance with paragraphs 2 and 4 of this handbook.

b. A retention allowance may be reduced or terminated by the official who approved it at any time it is determined that a retention allowance is no longer needed or should be reduced. Among the situations which may warrant adjustment or termination of an allowance:

- (1) Circumstances indicate that the employee or for group authorizations, a significant number of employees in the group, will remain with VA with a reduced allowance (or none);
- (2) Labor market conditions make it reasonably likely that a replacement with equivalent qualifications may be available (with or without a recruitment or relocation bonus);
- (3) VA's need for the applicable services has declined so that it is unnecessary to continue the allowance at the present level, or at all;
- (4) Budget constraints make it difficult to continue payment at the originally approved level or at all;
- (5) The employee(s) announces his or her intent to resign or transfer from VA employment or accepts another position within VA;
- (6) There is a change of duties, including change to a different set of functions while remaining on the same position description. When a retention allowance is terminated because of position change or change of duties, a new retention allowance may be approved only if there is a new determination based on VA need and a new offer of outside employment; or
- (7) There is an adjustment to the employee's rate of basic pay, whether due to approval of special salary rates, within-grade or periodic step increases, annual comparability and locality adjustments, promotion, etc.

c. Terminations will be effective as of the beginning of the first pay period after the date of the decision of the approving official or as of the anniversary date of the allowance if PAID termination results from lack of annual review compliance.

d. Disapproval, reduction, or termination of a retention allowance cannot be appealed. However, this does not lessen or eliminate any of the rights and remedies under subchapter II of chapter 12 of title 5 U.S.C. or any of the laws referred to in 5 U.S.C. 2302(d). Subchapter II of chapter 12 deals with the Office of the Special Counsel and, among other things, its authority to investigate and take corrective action in connection with prohibited personnel practices and prohibited political activity. The laws referred to in 5 U.S.C. 2302(d) relate to prohibited discrimination on the basis of race, color, religion, sex, national origin, age, handicapping condition, marital status, or political affiliation.

10. RECORDS MAINTENANCE. Records sufficient to reconstruct the action will be maintained at the facility for two years after the termination of the allowance. Records on allowances approved in Central Office will be maintained by the Customer Advisory and Consulting Group (051) for centralized field positions, Headquarters and Executive Resources Team (052) for Central Office positions, and records of locally approved allowances will be retained at the employing facility. Records will include at a minimum: the request, the approval, the statement of understanding, supporting documentation described in paragraph 4

of this handbook, annual review requests and approvals with supporting documentation, notices of terminations with reasons.

11. REPORTS

a. For each allowance approved at the facility level, the HRM official will submit to OHRM (051) no later than two weeks after the effective date of the allowance a copy of the signed request, including supporting documentation, the statement of understanding, and the approval.

b. On an annual basis, no later than November 15 of each year, the HRM official will submit through channels to the Customer Advisory and Consulting Group, OHRM (051) an Annual Retention Allowance Report, Reports Control Symbol 05-0876, containing cumulative information on the number of allowances offered during the preceding fiscal year, the number of employees who received allowances, the classification title, series and grade of each, the recipient's annual salary, the percentage of that salary received as an allowance, the dollar amount of the allowance received during that fiscal year, the number of allowances terminated during the year, the reasons for termination and an evaluation of the effect of each allowance on the facility's ability to retain essential VA employees. The report will be in memorandum format and will be signed by the facility Director. Negative reports are not required.

c. No later than December 31 of each year, OHRM (051) will prepare a report of VA use of retention allowances during the previous fiscal year. It will include the number of allowances offered under this directive during the preceding fiscal year, the number of employees who received allowances, the percentage of salary received as an allowance by each employee, and an evaluation of the overall effect of the payment of retention allowances on VA's ability to retain essential employees. The report will be made available to OPM and the union upon request.

APPENDIX A. SAMPLE STATEMENT OF UNDERSTANDING

I, _____ (name) _____, understand that the retention allowance that I am to receive as a _____ (title, series, grade, step) _____, position description number _____, earning _____ (\$) _____ per year in _____ (service, division, or office) _____ at _____ (facility), _____ city _____, _____ state _____, is being paid in order to retain my services.

I understand that the allowance:

- will be (X %) of my basic rate of pay for non-overtime hours only;
- will not be paid for periods in a nonpay status and that such periods will reduce the total allowance received in a 12-month period;
- must be reduced or terminated if it will cause my total compensation to exceed the aggregate limitation on pay for my occupation; and
- may be reduced or terminated at any time and that such action cannot be appealed.

SAMPLE

_____(employee's signature)_____

_____(date)_____

APPENDIX C. SAMPLE WORKSHEET FOR RETENTION ALLOWANCE REQUESTS

Employee's Name: _____ Facility: _____

Employee's Position: _____
(Title) (Series) (Grade)

Appointment Authority: _____ If temporary, _____

Expiration date: _____

If physician or dentist, is employee receiving special pay? _____ If yes, for which components and annual amount for each? _____

How long is the special pay service obligation? _____ How many months remain? _____

NOTE: Only *full-time permanent* physicians and dentists are eligible.

Evidence of bona fide offer of employment, if applicable (attached): Letter Employee Affidavit

Name of organization: _____

Address: _____ City: _____ State: _____ Zip: _____

Name and title of person offering job: _____ Phone No. _____

Title of position offered: _____ Annual salary: _____

Other benefits contributing to attractiveness of offer and approximate value of each: _____

SAMPLE

Describe VA's need and employee's special skills that cannot be obtained elsewhere:

____(continue on back).

Describe lack of similar qualifications (internal and external). Why can't job be re-engineered? (advertisements, announcements, Civil Service certificates, transfer candidates, reinstatement eligibles, VRAs, dates of each attempt, number of candidates available from each, number of declines, reasons for declines, what's wrong with others)

____(continue on back).

Prepared by _____

Date

APPENDIX D. SAMPLE SUPERVISORY CERTIFICATION

1. This is to certify that I have determined that (employee's name) is likely to leave Federal service for the purpose of authorizing a retention allowance.

2. This certification is based on (check one or more, as applicable):

- _____ receipt by the employee(s) of a bona fide offer of employment from:

(name of company), (position title), (city), (state), annual salary of (\$), (date)

- _____ High demand in the private sector for the employee's/group's knowledges and skills with significant pay disparities between Federal and non-Federal salaries.

Labor market trend/information to document high demand for employee's/group's knowledges and skills _____

Salary of VA position \$ _____; private sector salary for comparable position \$ _____

Source of private sector salary _____

- _____ Discussion of employee's career plans (summarize below)

SAMPLE

(supervisor's signature)

(date)