

EMPLOYEE RECOGNITION AND AWARDS

- 1. REASON FOR ISSUE:** To revise Department of Veterans Affairs (VA) policy regarding employee recognition and awards.
- 2. SUMMARY OF CONTENTS/MAJOR CHANGES:** This change creates Part VI to incorporate VA Notice 22-05, Recoupment of Awards, Bonuses, or Relocation Expenses, into VA Handbook 5017. These changes will be included in the electronic version of VA Handbook 5017, Employee Recognition and Awards, maintained on the [Office of Chief Human Capital Officer website](#) and [VA Publications website](#).
- 3. RESPONSIBLE OFFICE:** Office of Human Resources and Administration/ Operations, Security and Preparedness (HRA/OSP) (006), Office of the Chief Human Capital Officer (OCHCO) (05), Employee Relations and Performance Management Service (051).
- 4. RELATED DIRECTIVE:** VA Directive 5017, Employee Recognition and Awards dated July 7, 2010.
- 5. RESCISSIONS:** Not applicable.

CERTIFIED BY:

**BY DIRECTION OF THE SECRETARY
OF VETERANS AFFAIRS:**

/s/

Guy T. Kiyokawa
Assistant Secretary for
Enterprise Integration

/s/

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EMPLOYEE RECOGNITION AND AWARDS

**[PART VI. RECOUPMENT OF AWARDS, BONUSES, OR
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PART VI. RECOUPMENT OF AWARDS, BONUSES, OR RELOCATION EXPENSES

1. SCOPE. This part contains policies, procedures and guidelines governing the recoupment of awards, bonuses, or relocation expenses that are awarded or approved for all employees of the Department of Veterans Affairs (VA).

2. POLICY.

- a. The Secretary, or designee, may issue an order directing a VA employee to repay, in whole or in part, any award or bonus paid to the employee on or after June 23, 2017, under Title 5, including Chapters 45 or 53, or Title 38 if it is determined the employee engaged in misconduct or poor performance prior to payment of the award or bonus, and the award or bonus would not have been paid, in whole or in part, had the misconduct or poor performance been known prior to payment. The misconduct or poor performance that is the basis for recouping an award or bonus must have occurred on or after June 23, 2017.
- b. The Secretary, or designee, may issue an order to a VA employee to repay the amount, or a portion of the amount, paid to or on behalf of, the employee under Title 5 for relocation expenses, including 5 U.S.C. §§ 5724 and 5724a, or Title 38, if it is determined the relocation expenses were paid on or after June 23, 2017, following an act of fraud or malfeasance that influenced the authorization of the relocation expenses. The act of fraud or malfeasance that is the basis for recouping the relocation expenses must have occurred on or after June 23, 2017.
- c. Due process as described herein must be provided prior to repayment.

3. REFERENCES.

- a. [VA Directive 5017, Employee Recognition and Awards.](#)
- b. [VA Notice 22-05, Recoupment of Awards and Bonuses, or Relocation Expenses.](#)
- c. [38 U.S.C. § 721, Recoupment of Bonuses or Awards Paid to Employees of Department.](#)
- d. [38 U.S.C. § 723, Recoupment of Relocation Expenses Paid on Behalf of Employees of Department.](#)
- e. Delegation of Authority for Actions Under 38 U.S.C. §§ 721 and 723, dated April 27, 2022.

4. DEFINITIONS. For this part, the following terms apply:

- a. **Award or Bonus.** Payment given to reward an individual for contributing to an organizational goal or improving the efficiency, effectiveness, and economy of the Government or is otherwise in the public interest, or a recruitment, relocation, or retention incentive. These include but are not limited to employee incentives based on predetermined criteria such as productivity standards, performance goals, measurement systems, award formulas, or payout schedules. (Physician performance pay is not included as it is not considered an award or bonus.) Awards may be performance-rating based or non-rating based. Examples of awards include superior performance awards, individual and group special contribution awards, organizational awards, suggestion awards, etc. Step increases, which are those other than periodic step increases, are also considered an award.
- b. **Business Days.** Weekdays, which are Monday through Friday, except when such a day is designated as a Federal holiday by the Office of Personnel Management (OPM), or the employee's assigned facility is closed for regular business, e.g., inclement weather. For calculation purposes, a business day begins on the first business day after the notice of the proposed order is received by the employee.
- c. **Deciding Official for Recoupment of Awards, Bonuses and Relocation Expenses.** The deciding official is the supervisor who is at least one supervisory level above and within the same supervisory line as the proposing official, or other individual who is delegated by the Secretary or Deputy Secretary. If the Secretary was the proposing official, then the Secretary is also the deciding official.
- d. **Employee.** A current or former employee of VA.
- e. **Malfeasance.** An act that is unjustified, harmful, or contrary to law, rule, or regulation. It includes, but is not limited to:
 - (1) Conduct, actions, or inactions that are unbecoming a civil service employee;
 - (2) Conduct, actions, or inactions that negatively impact VA or detract from VA's mission;
 - (3) Intentionally or negligently violating law, regulation, or VA policy; or
 - (4) Insubordination.
- f. **Notice of Proposed Order for Recoupment of an Award or Bonus.** The written document signed by the proposing official notifying the employee of the intent to recoup an award or bonus payment, in whole or in part due to an

- g. employee's performance or conduct deficiency(ies) that occurred prior to the payment of the award or bonus.
- h. **Notice of Proposed Order for Recoupment of Relocation Expenses.** The written document signed by the proposing official notifying the employee of the intent to recoup relocation expenses following an act of fraud or malfeasance that influenced the authorization of relocation expenses.
- i. **Order of Recoupment of Award or Bonus.** A written decision by the deciding official to recoup all or part of an award or bonus payment.
- j. **Order of Recoupment of Relocation Expenses.** A written decision by the deciding official to recoup all or part of relocation expenses.
- k. **Preponderance of Evidence.** Evidence that a reasonable mind, considering the record as a whole, might accept as sufficient evidence to support a conclusion that the reasons for taking action are more likely to be true than not true.
- l. **Proposing Official for Recoupment of Awards, Bonuses or Relocation Expenses.** The proposing official is the current individual with the supervisory authority to approve awards, bonuses or relocation expenses in accordance with procedures, including applicable delegations, established in VA policy, if applicable, or a higher-level official in the supervisory line of authority, or other individual who is delegated by the Secretary or Deputy Secretary.
- m. **Relocation Expenses.** Monies paid to an employee for relocating in the interest of the Government from one agency or duty station to another for permanent duty, including in accordance with 5 U.S.C. §§ 5724 and 5724a or under Title 38 of the U.S. Code.
- n. **Standard of Proof.** The degree of evidence necessary to sustain an action taken under 38 U.S.C. §§ 721 or 723. For actions taken under this authority, a preponderance of evidence is the burden of proof.

5. PROCEDURES FOR RECOUPMENT OF AWARD OR BONUS.

a. **Initial Determination.**

- (1) If it is determined by preponderance of the evidence an employee engaged in misconduct or poor performance prior to payment of an award or bonus and, as a result, the award or bonus would not have been paid, in whole or in part, had the misconduct or poor performance been known by a management official, the proposing official may decide, in consultation with the servicing Human Resources (HR) office and the servicing Office of General Counsel (OGC), whether the recoupment of the award or bonus should be proposed.

- (2) If an employee resigns or retires after being issued a proposed disciplinary, adverse or major adverse action, or upon a finding following the conclusion of an investigation that the employee engaged in misconduct, the proposing official may decide, in consultation with HR and OGC, whether to initiate the recoupment of an award or bonus if determined by a preponderance of the evidence the employee engaged in misconduct or poor performance prior to payment of the award or bonus, and the award or bonus would not have been paid, in whole or in part, had the misconduct or poor performance been known prior to payment.
- (3) If an investigation is ongoing at the time of an employee's resignation or retirement, the convening authority will determine if the investigation should continue, and a report be issued. Additionally, management will consult with the Office of Accountability and Whistleblower Protection (OAWP) if the investigation involves allegations of whistleblower reprisal to determine if OAWP will continue the investigation or initiate one, if applicable. If management wants OAWP to continue with an investigation after the employee's resignation or retirement, or initiate an investigation, management should route a request through the respective administration or staff office to the Assistant Secretary, OAWP.

b. Conclusion.

- (1) The proposing official may determine an employee must repay an award or bonus and issue a notice of proposed order if it is determined by a preponderance of the evidence that:
 - (a) The employee engaged in misconduct or poor performance prior to payment of an award or bonus; and
 - (b) The award or bonus would not have been paid, in whole or in part, had the misconduct or poor performance been known prior to payment.
- (2) If the proposing official concludes the recoupment of an award or bonus is not appropriate, they will document this finding in writing and submit it to HR for inclusion with the investigation file, disciplinary/adverse action file, if applicable, or other appropriate file.

c. Notice of Proposed Order.

- (1) After the proposing official has determined by a preponderance of the evidence an award or bonus recoupment is warranted, a notice of proposed order may be issued after review by the servicing HR office and servicing OGC. A determination regarding when such notice should be issued will also be reviewed with OGC, e.g., while a disciplinary/adverse action is pending appeal. It will contain the following information:

- (a) State the amount of the award or bonus received by the employee;
 - (b) State the approximate date upon which the award or bonus was paid;
 - (c) State the specific performance or conduct deficiency(ies);
 - (d) State the date range of the performance or conduct deficiency(ies);
 - (e) State the impact of the performance or conduct deficiency(ies) on the award or bonus paid to the employee had the deficiency(ies) been known prior to payment, including any aggravating factors and the rationale considered in reaching a decision regarding the amount to be recouped;
 - (f) State the award amount to be recouped (see NOTE); and
 - (g) State the employee has an opportunity to provide a written reply to the deciding official within 10 business days.
- (2) **NOTE:** 5 U.S.C. § 5384 provides that Senior Executive Service employees eligible for awards shall not be less than 5 percent of basic pay. Thus, if a determination is made that the executive was eligible for an award and the award is only to be recouped in part, the remaining award amount cannot be less than 5 percent of the employee's basic pay. The award can be recouped in whole only if the executive is determined to have not been eligible for an award. A copy of the evidence related to the misconduct or poor performance will be provided to the employee when the notice of proposed order is issued.
- (3) The employee will be granted 10 business days after receipt of the notice of proposed order to submit a written reply to the deciding official. For purposes of computing the 10-business-day period, the date of service of the proposed order on the employee will be determined by the date of receipt by the employee of the personal delivery, electronic mail, or confirmed delivery of the proposed order, or it will be presumed to be delivered five calendar days after depositing the proposal in the U.S. mail if confirmation of delivery is unavailable.

d. **Order.**

- (1) A written memorandum will be issued to the employee as follows:
- (a) If the employee submits a written response to the notice of proposed order, the deciding official will issue an order not later than five-business days after receiving the employee's response.
 - (b) If the employee does not respond to the notice of proposed order, the deciding official will issue an order not later than 15-business days

after the date of receipt of the notice of proposed order by the employee. For purposes of computing the 15-business-day period, the date of service of the order on the employee will be determined by the date of reception by the employee of the personal delivery, electronic mail, or confirmed delivery of the order, or it will be presumed to be delivered five calendar days after depositing the proposed order in the U.S. mail if confirmation of delivery is unavailable.

- (2) The order will state the:
 - (a) Decision of the deciding official;
 - (b) Basis for the decision, including aggravating and mitigating factors;
 - (c) Amount of award or bonus monies to be recouped, if any; and
 - (d) Right to file an appeal with the Director, OPM, within seven business days after receipt of the order by the employee.

e. Appeal.

- (1) The employee may file an appeal to the Director, OPM, 1900 E St., NW, Washington, DC 20415, within seven business days after the date of receipt of the order and submit a copy of the appeal to the deciding official.
- (2) The appeal should include a copy of the notice of proposed order, the order signed by the deciding official, and a statement explaining why the employee believes the order is unjustified.
- (3) Upon request from OPM, VA will provide a copy of the evidence file.
- (4) The OPM Director will make a final decision with respect to the appeal within 30 business days after receiving such appeal and remit notice of the decision to the employee and agency.
- (5) If the deciding official's order is upheld by OPM, in whole or in part, VA will seek repayment of the award or bonus.
- (6) If the deciding official's order is not upheld by OPM, no repayment of the award or bonus is authorized.
- (7) If the employee does not file an appeal with OPM, the deciding official will initiate repayment of the award or bonus by the employee.

6. PROCEDURES FOR RECOUPMENT OF RELOCATION EXPENSES.

a. Initial Determination.

- (1) If it is determined by a preponderance of evidence that relocation expenses were paid following an act of fraud or malfeasance that influenced the authorization of the relocation expenses, the proposing official may decide, in consultation with the servicing HR office and the servicing OGC, whether to initiate recoupment of relocation expenses.
- (2) If an employee resigns or retires after being issued a proposed disciplinary, adverse, or major adverse action or upon a finding following the conclusion of an investigation that the employee engaged in fraud or malfeasance that influenced the authorization of relocation expenses, the proposing official may decide, in consultation with HR and OGC, whether to initiate recoupment of relocation expenses if determined by a preponderance of the evidence that relocation expenses were paid following an act of fraud or malfeasance that influenced the authorization of relocation expenses.
- (3) If an investigation is ongoing at the time of an employee's resignation or retirement, the convening authority will determine if the investigation should continue and a report be issued. Additionally, management will consult with the OAWP if the investigation involves allegations of whistleblower reprisal to determine if OAWP will continue the investigation or initiate one, if applicable. If management wants OAWP to continue with an investigation after the employee's resignation or retirement, or initiate an investigation, management should route a request through the respective administration or staff office to the Assistant Secretary, OAWP.

b. Conclusion.

- (1) The proposing official may determine an employee must repay relocation expenses if it is determined by a preponderance of the evidence that:
 - (a) Relocation expenses were paid following an act of fraud or malfeasance; and
 - (b) The act of fraud or malfeasance influenced the authorization of relocation expenses.
- (2) If the proposing official concludes the recoupment of relocation expenses is not appropriate, they will document this finding in writing and submit it to HR for inclusion with the investigation file, disciplinary/adverse action file, if applicable, or other appropriate file.

c. Notice of Proposed Order.

- (1) After the proposing official has determined by a preponderance of the evidence the recoupment of relocation expenses is warranted, a notice of proposed order may be issued after review by the servicing HR office and servicing OGC. A determination regarding when such notice should be

issued will be reviewed with OGC, e.g., while a disciplinary/adverse action is pending appeal. It will contain the following information:

- (2) State a determination was made that the relocation expenses would not have been paid in the absence of the act of fraud or malfeasance that influenced payment.
 - (a) State the amount of the relocation expenses received by the employee;
 - (b) State the approximate date upon which the relocation expenses were paid;
 - (c) State the specific act of fraud or malfeasance that influenced the authorization of relocation expenses;
 - (d) State how the fraud or malfeasance influenced the authorization of the relocation expenses, including any aggravating factors and the rationale considered in reaching a decision regarding the amount to be recouped;
 - (e) State the relocation expense monies to be recouped; and
 - (f) State the employee has an opportunity to provide a written reply to the deciding official within 10 business days.
- (3) A copy of the evidence related to the fraud or malfeasance will be provided to the employee when the notice of proposed order is issued.
- (4) The employee will be granted 10 business days after receipt of the notice of proposed order to submit a written reply to the deciding official. For purposes of computing the 10-business-day period, the date of service of the proposed order on the employee will be determined by the date of receipt by the employee of the personal delivery, electronic mail, or confirmed delivery of the proposed order, or it will be presumed to be delivered five calendar days after depositing the proposed order in the U.S. mail if confirmation of delivery is unavailable.

d. Order.

- (1) A written memorandum will be issued to the employee as follows:
 - (a) If the employee submits a written response to the notice of proposed order, the deciding official will issue an order not later than five-business days after receiving the employee's response.
 - (b) If the employee does not respond to the notice of proposed order, the deciding official will issue a decision not later than 15-business days after the date of receipt by the employee of the notice of proposed order. For purposes of computing the 15-business-day period, the date

of service of the proposed order on the employee will be determined by the date of receipt by the employee of the personal delivery, electronic mail, or confirmed delivery of the proposed order, or it will be presumed to be delivered five calendar days after depositing the proposed order in the U.S. mail if confirmation of delivery is unavailable.

- (2) The order will state the:
 - (a) Decision of the deciding official;
 - (b) Basis for the decision, including aggravating and mitigating factors;
 - (c) Amount of relocation expense monies to be recouped, if any; and
 - (d) Right to file an appeal with the Director, OPM, within seven business days after receipt of the order by the employee.

e. Appeal.

- (1) The employee may file an appeal to the Director, OPM, 1900 E St., NW, Washington, DC 20415, within seven business days after the date of receipt of the order and submit a copy of the appeal to the deciding official.
- (2) The appeal should include a copy of the notice of proposed order, the order signed by the deciding official and a statement explaining why the employee believes the order is unjustified.
- (3) Upon request from OPM, VA will provide a copy of the evidence file.
- (4) The OPM Director will make a final decision with respect to the appeal within 30 calendar days after receiving such appeal and remit notice of the decision to the employee and agency.
- (5) If the deciding official's order is upheld by OPM, in whole or in part, VA will seek recoupment of the relocation expenses.
- (6) If the deciding official's order is not upheld by OPM, no recoupment of the relocation expenses is authorized.
- (7) If the employee does not file an appeal with OPM, VA will initiate recoupment of the relocation expenses paid to the employee.

7. PROPOSING AND DECIDING OFFICIALS. See [Secretary's Delegation of Authority Memorandum for Actions under 38 U.S.C. §§ 721 and 723, Recoupment of Bonuses or Awards.](#)]