

**MINERALS MANAGEMENT SERVICE
INTERIM POLICY DOCUMENT**

Effective Date: March 21, 2008

IPD No.: 08-07

Series: Administrative

Title: Individual Retention Incentives

Originating Office: Human Resources Division, Administration and Budget

1. Purpose

A. The purpose of this Interim Policy Document (IPD) is to identify the authorities for recommending and approving individual retention incentives within the Minerals Management Service (MMS).

B. This IPD establishes requirements, procedures, and limitations for requesting individual retention incentives; and terminating retention incentives and service agreements.

2. Objective. To ensure consistency in the application of individual retention incentives throughout the MMS, and to ensure that records are prepared and maintained as required for review.

3. Authority. Departmental Personnel Bulletin No. 06-01 dated October 31, 2005, Subject: Departmental Policy on Recruitment, Relocation, and Retention Incentives, and Title 5, Code of Federal Regulations (5 CFR) 575.

4. Scope.

A. Covered employees. Employees in the following categories of positions are eligible for incentives: (Note: An agency may not include an employee in a senior-level or scientific or professional, Senior Executive Service, or Executive Schedule position, or in certain other senior positions, in a group retention incentive authorization. (See 5 CFR 575.315(a)(2) and 5 CFR 575.305(c)).)

(1) A GS position paid under 5 U.S.C. 5332 or 5305 (or similar special rate authority);

(2) A senior-level (SL) or scientific or professional (ST) position paid under 5 U.S.C. 5376;

(3) A Senior Executive Service (SES) position paid under 5 U.S.C. 5383;

(4) A position as a law enforcement officer, as defined in 5 C.F.R. 550.103;

(5) A position under the Executive Schedule paid under 5 U.S.C. 5311-5317 or a position the rate of pay for which is fixed by law at a rate equal to a rate for the Executive Schedule; and

(6) A prevailing rate position, as defined in 5 U.S.C. 5342(a)(3).

B. Employees not covered. The payment of incentives is prohibited by 5 U.S.C. 5753(a)(2) and 5754(a)(2) to employees in:

(1) A position to which an individual is appointed by the President, by and with the advice and consent of the Senate;

(2) A position in the SES as a non-career appointee (as defined in 5 U.S.C. 3132(a)(7));

(3) A position excepted from the competitive service by reason of its confidential, policy-determining, policy-making, or policy-advocating character; and

(4) A position to which an individual is appointed by the President without the advice and consent of the Senate.

5. Policy. It is the policy of MMS to approve individual retention incentives based on the unusually high or unique qualifications of the employee or a special need of the bureau for the employee's services which make it essential to retain the employee, and acceptable documentation that, in the absence of such an incentive, the employee would be likely to leave Federal service.

The total amount of a retention incentive cannot exceed 25 percent of an employee's annual rate of basic pay, including any locality payments. Payment of a retention incentive will be made in biweekly installments, thus no length of service agreement will be required. There is no special fund for retention incentive payments—they must be calculated in the organization's budget.

6. Responsibilities.

A. The recommending official for the incentive must be at least one level higher than the supervisor of the employee identified to receive the retention incentive. When a single employee is identified to receive the retention incentive and there are similarly situated employees (employees under the same supervisor and occupying the same position description), the recommending official must address the basis for recommending that employee over any others.

If the retention incentive is approved, the recommending official will also, no later than each anniversary of the submission of the recommendation, review the documentation supporting the recommendation and certify in writing to the servicing Human Resources Office (SHRO) that all of the circumstances supporting the recommendation still remain in effect. The requirement for this annual review remains in effect for the duration of the retention incentive. Failure to provide a timely review may result in termination of the retention incentive.

B. The SHRO is responsible for determining whether an employee meets the statutory and regulatory requirements for receiving an incentive. The SHRO is also responsible for establishing and maintaining files containing the justification for each issuance of a retention incentive. Documentation shall be available for review and analysis upon request by the Department or the Office of Personnel Management (OPM). The SHRO will maintain records reflecting the following information:

- (1) The number of retention incentives offered and the number accepted;
- (2) The percentage of salary offered and accepted in each individual case; and
- (3) A summary statement assessing the effect of the incentive authority on the ability to retain the services of employees (this must be addressed by the recommending official in the written recommendation).

The SHRO will also maintain a listing of employees on retention incentives including, at a minimum, the employee's name, organization, recommending official, and amount of the retention incentive. This must be reviewed periodically to ensure that annual reviews are submitted by the recommending officials

C. The Director, MMS, retains the authority to approve incentive payments. As necessary (if the employee reports directly to the Director), the request will be forwarded to the Assistant Secretary, Land and Minerals Management, for approval.

D. The Executive Resources Board (ERB) approves retention incentives for all employees occupying positions in the SES, SL, and ST categories. Requests for payment of an incentive for employees at this level must be submitted to the Chair of the ERB through the Assistant Secretary, Land and Minerals Management.

7. Procedures.

A. The recommending official must prepare the documentation supporting the recommendation for a retention incentive, taking into account the factors noted below under criteria for payment. A checklist identifying the required contents for a written recommendation is attached to this IPD.

B. Criteria for payment.

(1) The employee's current performance appraisal must be at least Level 3—Fully Successful and his /her performance must remain at least at that level throughout the period of service under the retention incentive.

(2) Each retention incentive will be based on a written determination that the unusually high or unique qualifications of the employee—or a special need of the organization for the employee's services—makes it essential to retain the employee. The written determination will describe the extent to which the employee's departure would affect the organization's ability to carry out an activity or perform a function essential to its mission, citing specific anticipated consequences (i.e.,

impact on a particular program). The written determination must also show that, in the absence of a retention incentive, the employee would be likely to leave Federal service. That likelihood must be supported by documentation such as a bona fide written offer of employment from a company or other non-Federal entity, or a market survey or area wage survey. In determining whether a retention incentive should be paid, and the amount of such payment, the following factors must be considered:

(a) The outcome of recent efforts to recruit candidates and retain employees with qualifications similar to those of the employee for positions similar to the employee's position; and

(b) The availability in the labor market of candidates for employment who could, after a reasonable orientation period (90 days) perform the full range of duties and responsibilities assigned to the position held by the employee.

C. Requests for approval of retention incentives will be forwarded via the SHRO to the Chief, Human Resources Division for referral to the Director.

D. The Director's approval or disapproval will be returned to the recommending official through the same chain of custody. As noted above, if necessary the recommendation will be forwarded to the Assistant Secretary, Land and Minerals Management, for approval.

E. Payment of Retention Incentive.

(1) The employee's special rate or locality rate of pay, as applicable, will be used to compute retention incentives. The rate of basic pay excludes additional pay of any other kind, including night-shift differentials under 5 U.S.C. 5343(f) or environmental differentials under 5 U.S.C. 5343(c)(4) for Federal Wage System employees. Retention incentives are not considered part of basic pay for any purpose. They are subject to the aggregate limitation on pay under 5 U.S.C. 5307 and 5 C.F.R Part 530, Subpart B.

(2) Under 5 C.F.R 575.109(b) and 575.209(b)(1) the total amount of incentive payments (for recruitment, relocation and/or retention) received by an employee in a service period may not exceed 25 percent of an employee's annual rate of basic pay, including any special rate or locality payment, multiplied by the number of years, or fractions of a year, in a service period.

(3) Payment of a retention incentive will be made in biweekly installments with no length of service agreement required.

F. Reduction or Termination of Retention Incentive.

An organization may unilaterally terminate a retention incentive based on the management needs of the office. The official terminating a retention incentive may be at a lower organizational level than the Director, but must be in the approving managerial hierarchy of the organization. In such a case, the SHRO must be advised prior to the termination.

A retention incentive must be reduced or terminated whenever payment at the original level is no longer warranted. The retention incentive must be terminated if the employee is demoted or separated for performance or conduct reasons, if the employee receives a rating of record lower than Level 3—Fully Successful, or if the organization reassigns the employee to a different position which does not warrant a retention incentive.

Termination or reduction of a retention incentive is not grievable or appealable under any law or regulation.

G. Program Oversight and Evaluation.

Review of the use of retention, recruitment, and relocation incentives will be included in MMS internal personnel management evaluation programs. This review shall be accomplished at least annually and the results made available upon request.

8. Cancellation. This IPD will remain in effect until incorporated into the MMS Manual, canceled, or superseded with another IPD.

Robert E. Brown
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Attachment

**MINERALS MANAGEMENT SERVICE
INDIVIDUAL RETENTION INCENTIVE CHECKLIST**

Recommending officials must insure the following steps are taken when considering a retention incentive for an employee within their organizations. The documentation supporting a recommendation will be made available for review and analysis upon request by MMS HR, EEO, DOI and OPM.

Step 1.

Confirm that the employee has a bona fide written offer of employment from a company or other non-federal entity, market survey or area wage survey, and attach a copy to the recommendation.

Step 2.

Prepare a written recommendation addressing the following:

- (a) The extent to which the employee's departure would affect the organization's ability to carry out an activity or perform a function essential to its mission.
- (b) The unique qualifications or circumstances of the individual recommended for the retention incentive.
- (c) The availability in the local labor market of candidates for employment who could, after a reasonable orientation period (90 days), perform the full range of duties and responsibilities assigned to the position held by the employee. Attach a copy of the supporting documentation.
- (d) The likelihood that, in the absence of a retention incentive, the employee would most likely leave Federal service, and the basis for this conclusion (e.g., the firm job offer and any statements made by the employee).
- (e) The outcome of recent efforts to recruit candidates and retain employees with qualifications similar to those of the employee for positions similar to the employee's position;

Step 3.

Forward the recommendation through the servicing Human Resources Office to the Chief, Human Resources Division for the signature of the Director.

