



January 12, 2024

The Office of Personnel Management
1900 E Street NW
Washington, DC 20415

Re: Recruitment and Relocation Incentive Waivers (RIN: 3206–AO36)

Dear Director Ahuja:

On behalf of the Partnership for Public Service, I am writing to share comments on the Office of Personnel Management’s (OPM) proposed changes to the use of recruitment and relocation incentive waivers released on November 15, 2023.

The Partnership is a nonprofit, nonpartisan organization committed to building a better government and a stronger democracy. Core to our mission is the belief that a merit-based, nonpartisan civil service, who represents the diversity of the country, is central to our system of government. Since the Partnership’s founding over two decades ago, we have advocated across administrations for changes to federal law, regulations, policies, and programs that improve our government’s ability to attract, hire and retain a talented and diverse workforce that effectively serves the public.

Delegating Transactional Authority

The Partnership supports expanding the authority to approve waivers of the normal payment limitations for recruitment and relocation incentives to agencies and commends OPM for reassessing this low-risk transactional activity. We encourage OPM to continually weigh similar transactional activities against proper levels of oversight to identify areas for further delegation, as this will enable OPM to better meet its mission as the federal government’s strategic human capital leader and empower agencies to meet their individual workforce needs.

Delegating low-risk transactional authorities to agencies lessens the burden on OPM’s internal operations and relieves pressure on agencies waiting for approvals. As noted in its 2021 report for OPM, the National Academy of Public Administration discovered that OPM’s organizational home responsible for approving recruitment and relocation waivers does not have staff dedicated to transactional review and approval work.ⁱ OPM’s time spent on these transactions is unknown in comparison to the time spent on developing policies and regulations.ⁱⁱ Delegation with later oversight from OPM, as seen in the proposed rule, reduces the tradeoff between time spent on oversight and strategic planning, and simultaneously responds to comments that OPM’s transactional reviews are a major pain point facing agencies.ⁱⁱⁱ

As OPM moves forward with this proposed rule, the Partnership seeks clarity on how the agency intends to provide guidance, transparency and post-transactional oversight. To that end,



the agency should address the following questions in its final rule and in any subsequent guidance:

- How does OPM intend to review post-transactional incentive waivers?
- How often will OPM review approved agency incentive waivers?
- Will OPM publish a regularly scheduled report detailing the use of recruitment, retention and relocation incentives and the use of waivers?
- What data should be reported by agencies to OPM's central data system regarding incentive payments?
- Does OPM intend to provide guidance to agencies on this delegated authority?
- Will OPM provide best practices on preventing waste, fraud and abuse with regard to recruitment and relocation incentive payments?

Considering these questions and the Partnership's research, we offer the following recommendations for the effective and efficient use of recruitment and relocation incentives and provide additional thoughts on how the federal government can be a model employer with respect to the incentives.

Effective and Efficient Use of Recruitment and Relocation Incentives

The Partnership offers the following recommendations to increase the effective and efficient use of recruitment and relocation incentives. These incentives aid agency efforts to successfully hire qualified candidates for hard to fill positions, but more can be done by Congress and OPM to leverage their use. These recommendations should be considered and applied to maximize the potential of the incentives and the new waiver authority provided to agencies.

Legislate occupation-based incentive payments:

Agencies could more effectively use recruitment and relocation incentives if the law authorizing these payments was amended to allow for occupation-based payments using conditions for similar positions in the private sector.^{iv} Additionally, OPM should analyze the effect of current federal pay caps and study the viability of occupation-based payments for further congressional consideration. The federal government is in direct competition for critical talent with the private sector, where companies have fewer constraints on their hiring and compensation processes. Combined with a complicated and slow hiring process, the federal government is placed at a distinct disadvantage when recruiting from the same talent pools as the private sector.

While current constraints prevent the federal government from fully competing with the private sector on pay, occupational-based market-sensitive incentive payments could help level the playing field. Federal law already allows agencies to provide recruitment and relocation incentives based on individual circumstances. The federal government should go beyond this individual approach and analyze the compensation for full fields of difficult to hire positions. This would enable agencies to provide competitive incentives to reduce pay gaps, quicken the



time to hire more broadly and broadcast to current and potential employees that the federal government is willing and equipped to compete for their talent.

Streamline the incentive initiation approval process:

Federal agencies should focus on streamlining the initiation and approval process of recruitment and relocation incentives when updating their agency incentive plans in response to the new rulemaking. Delegating waiver authority to agencies is an attempt to make the incentive process more efficient, but inadequate agency planning could produce opposite results. Agencies with little experience authorizing incentives or those who have avoided initiating waivers in the past will require guidance to prevent unintentional chokepoints. Central agency offices must also prepare to handle the new waiver authority and the potential increase in requests from field offices to meet their hiring needs.

OPM can aid in the streamlining effort by providing implementation guidance to agency Chief Human Capital Officers and supplying additional training to agencies on approving waivers, as OPM is the agency currently responsible for the approvals. OPM should also provide information on streamlining and authorizing best practices gathered from agencies who have a successful track record with recruitment and relocation incentives. Additionally, OPM could recommend that agencies identify positions and criteria for automatic incentive eligibility and include this information in their agency incentive plans. Agencies who streamlined the approval and initiation process by prescribing eligibility criteria from the onset of the incentives viewed this effort as a positive approach that significantly eased administrative burdens and increased responsiveness.^v

Use data to track and determine effective incentives:

Data should be collected on recruitment and relocation incentives to determine what payment amounts and lengths of service yield quality hires. This collection will paint a clearer picture of the broader talent market and allow agencies to make competitive initial incentive offers to fill desired positions. Further analysis will also allow agency human resource officers to make a business case to agency leaders on the further use of recruitment and relocation incentives as part of agency human capital plans. Incentive tracking should also be incorporated into agency HR technology modernization efforts to ensure incentive data collection is part of future budgeted updates.

Budget for recruitment and relocation incentives:

Agencies should budget for the use of recruitment and relocation incentives so they can be authorized in a timelier manner. While recognizing that agency budgets are tight and differ in size, failure to provide access to funds for the use of these incentives will ultimately cause agencies to lose out on talent for positions where an incentive is justified. Slow agency internal processes in the search for unbudgeted funds also hinders the hiring and relocation processes further.



From an incentive authorization standpoint, and as mentioned in previous OPM reporting on incentives, having prescribed agency budgets enables managers to exercise considerable compensation authority with full accountability for their decisions, should agencies wish to empower their managers to do so.^{vi} This places decision making closer to the level of the candidate, keeping with the proposed rule’s language about the level of official who can authorize an incentive. As the proposed rule states, an official may be authorized to approve an incentive so long as they are not lower than a candidate’s supervisor. This authority places decision-making closer to direct human capital needs, which can create greater responsiveness and efficiency. To aid in this effort, OPM should provide supervisor authorization and accountability best practices to agencies to ensure widespread understanding.

Update and broadcast OPM training on incentives:

OPM should update and provide training on the proper use of recruitment and relocation incentives for agency officials. OPM previously provided a “Pay and Leave Flexibilities for Recruitment and Retention” training, which may now contain outdated information considering the proposed rule.^{vii} Agencies and the officials they tap to manage incentives must know about the changes occurring to the payments for efficiency and effectiveness purposes. Updated training should incorporate information about compliance, oversight, internal authorization and streamlining. It should also include guidance on updating agency incentive plans, data collection and common forms agencies can use to streamline incentive procedures. Agencies and officials who do not understand the rules surrounding the use of incentives will either fail to use them or cause unnecessary compliance issues that OPM will have to later contend with.

Serving as a Model Employer When Using Recruitment and Relocation Incentives

The federal government can and should be a model employer with respect to recruitment and relocation incentives, but to do so, it must first commit to preventing bias and abuse. The Partnership offers the following recommendations with this commitment in mind, along with the effective pairing of additional incentives.

Prevent bias and abuse:

The proposed rule provides an opportunity for agencies to reassess their internal controls governing recruitment and relocation incentives. Federal agencies should analyze existing procedures and update them to promote internal equity and prevent bias and abuse. The new waiver authority creates greater responsibility on the part of agencies, but it also increases the interest in agency actions by Congress and other outside organizations. Agencies should keep this in mind and recognize that the last decade saw well documented cases of incentive misuse because agencies failed to properly follow their own incentive guidelines.^{viii}

The potential for bias and abuse can be mitigated through proper planning. Each agency is tasked with establishing a recruitment incentive plan before any payments can be made. These



plans designate officials with authority to review and approve incentive payments, list which category of employees may not receive incentives, detail the level of documentation required, lay out what payment methods and service periods are allowable, along with much more. Agencies should also create or update employee handbooks with references to incentives with equity, bias and abuse considered as well. All told, agencies should set in place internal controls to ensure recruitment and relocation incentives are equitable, justified, properly authorized and tracked through compliance monitoring and ensure these internal controls are checked by OPM for accountability.

Pair recruitment and relocation incentives with other available hiring incentives:

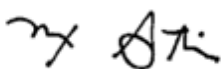
If the federal government wants to be a model employer regarding incentives, it must be a leader in the creative use of them to attract top talent. Agencies should be mindful of what other incentives they can authorize and pair them with recruitment and relocation incentives to increase the strength of their offers. Hiring managers should feel empowered to make competitive offers by receiving guidance on all available incentives at their disposal. The current salary limitations make it harder for the government to compete for top talent with the private sector, but some agencies take full advantage of available hiring incentives, pairing recruitment and relocation incentives with student loan repayment commitments and tuition reimbursement for future courses.^{ix} OPM should address this issue and share best practices in any subsequent guidance to make it clear that a full array of incentives can be considered and paired together as a package.

Conclusion

The Partnership appreciates OPM's delegation of recruitment and relocation incentive waivers to agencies, especially as it represents efforts to thoughtfully delegate low-risk transactional tasks to agencies. This ongoing effort, as contained in OPM's strategic plan, will assist the agency in freeing up resources so that it can better serve as the federal government's strategic human capital leader. As federal agencies take on this new incentive authority, we urge them and OPM to think carefully about how recruitment and relocation incentives can be used effectively and efficiently, with special attention given to their strategic and responsible use.

Thank you for the opportunity to share our thoughts and recommendations. We welcome the opportunity to work together toward our shared goal of supporting the federal civil service today and in the future.

Sincerely,



Max Stier
President and CEO



PARTNERSHIP FOR PUBLIC SERVICE

ⁱ “Elevating Human Capital: Reframing the U.S. Office of Personnel Management’s Leadership Imperative,” National Academy of Public Administration, March 2021, <https://s3.us-west-2.amazonaws.com/napa-2021/studies/united-states-office-of-personnel-management-independent-assessment/OPM-Final-Report-National-Academy-of-Public-Administration.pdf>

ⁱⁱ Ibid.

ⁱⁱⁱ Ibid.

^{iv} “Recommendations from Renewing America's Civil Service,” Partnership for Public Service and the Volcker Alliance, August 2018, <https://www.volckeralliance.org/recommendations-renewing-americas-civil-service>

^v “Report of a Special Study The 3Rs: Lessons Learned from Recruitment, Relocation, and Retention Incentives,” Office of Personnel Management, December 1999, <https://ourpublicservice.org/wp-content/uploads/1999/12/865595e15de0d892646d1ae0b67e5ea7-1414081930.pdf>

^{vi} Ibid.

^{vii} “Release of OPM’s Course: Pay and Leave Flexibilities for Recruitment and Retention,” Office of Personnel Management, August 2017, https://chcoc.gov/sites/default/files/release-opm%E2%80%99s-course-pay-and-leave-flexibilities-recruitment-and-retention_508.pdf

^{viii} “Audit of Recruitment, Relocation, and Retention Incentives,” Veterans Affairs Office of Inspector General, January 2017, <https://www.va.gov/oig/pubs/VAOIG-14-04578-371.pdf>

^{ix} “Cyber In-Security: Strengthening the Federal Cybersecurity Workforce,” Partnership for Public Service, July 2009, <https://ourpublicservice.org/wp-content/uploads/2009/07/ffa14da3190af7185c90ab9c70a78633-1403034385.pdf>